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ANNUAL REPORT OF THE

# NORTH DAKOTA JUDICIAL SYSTEM

*Calendar Year 1985*

State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

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ADMINISTRATOR

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TO THE HONORABLE CHIEF JUSTICE
AND JUSTICES OF THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA:

TO THE HONORABLE MEMBERS OF THE
NORTH DAKOTA JUDICIAL CONFERENCE

Once again, I am pleased to submit to you the Annual Report of the North Dakota judicial system. This report highlights the activities of the North Dakota judicial system during calendar year 1985. It provides statistical information on our courts and reports on other developments and activities which are shaping our judicial system. It should prove valuable as a reference source for anyone wishing to learn about the operation of the judicial system in North Dakota.

I take this opportunity to publicly acknowledge the valuable assistance and cooperation extended to me by the judges and court personnel whose reports provided the information contained in the Annual Report. Particular thanks go to the staff of the State Court Administrator's Office for their diligent work in compiling the statistics and designing the format for this work.

Respectfully submitted,

WILLIAM G. BOHN
State Court Administrator and
Judicial Conference Executive
Secretary

WGB/ms

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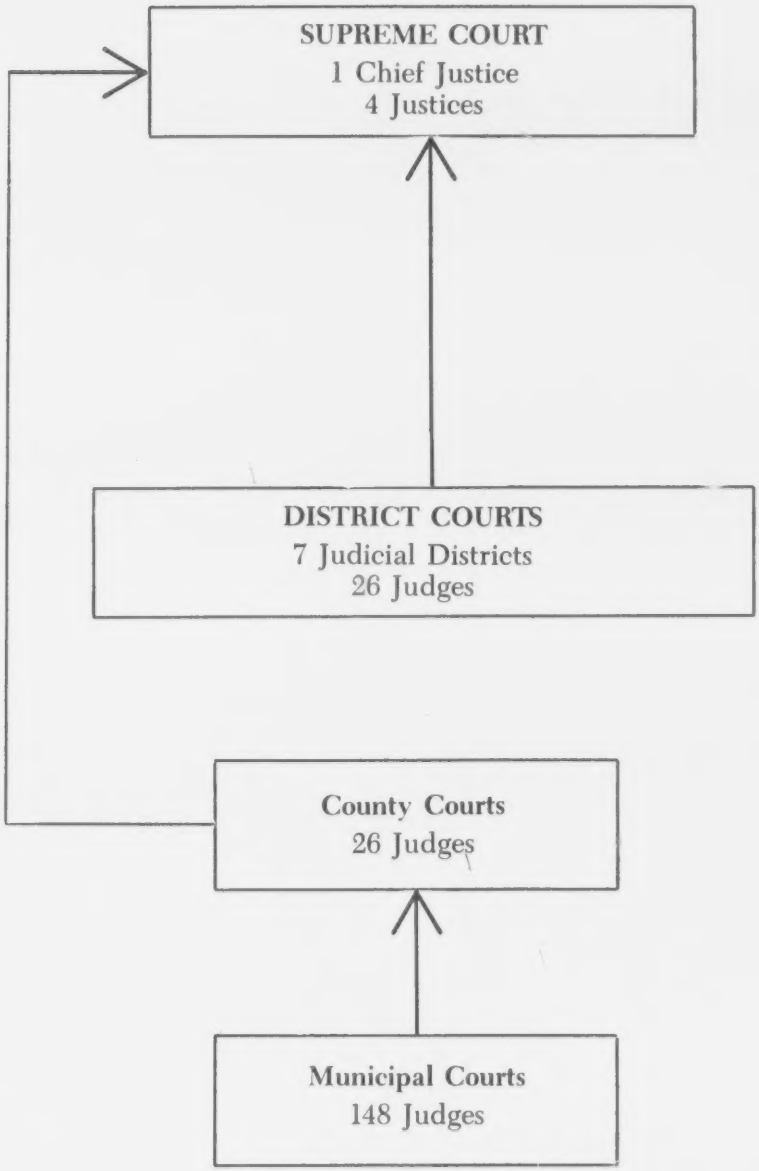
# The Structure of the North Dakota Judicial System



# Profile of the North Dakota Judicial System

**Structure of the Court System**

The original constitution of the State of North Dakota created a judicial system consisting of the supreme court, district courts, justice of the peace courts, and such municipal courts as provided by the legislature. This judicial structure remained intact until 1959 when the Legislature abolished the justice of peace courts in the state.

The adoption of a new judicial article to the state constitution in 1976 significantly modified the constitutional structure of the judicial system. The new judicial article vested the judicial powers of the state in a unified judicial system consisting of a supreme court, district courts, and such other courts as provided by law. Thus, under the new judicial article, only the supreme court and the district courts have retained their status as constitutional courts. All other courts in the state are statutory courts.

In 1981 the Legislature further altered the structure of the judicial system by enacting legislation which replaced the multi-level county court structure with a uniform system of county courts throughout the state. This new county court structure became effective on January 1, 1983.

With the new county court system in place, the judicial system of the state consists of the supreme court, district courts, county courts, and municipal courts.

**Administrative Authority**

In addition to these structural changes, the new judicial article clarified the administrative responsibilities of the supreme court by designating the Chief Justice as the administrative head of the judicial system and by granting the Chief Justice the authority to assign judges for temporary duty in any nonfederal court in the state. It also acknowledged the supreme court's rulemaking authority in such areas as court procedure and attorney supervision.

**Selection and Removal of Judges**

All judges in North Dakota are elected in nonpartisan elections. Justices of the supreme court are elected for ten-year terms; district court judges for six-year terms, and all other judges for four-year terms.

Vacancies in the supreme court and the district courts can be filled either by a special election called by the governor or by gubernatorial appointment. However, before a vacancy can be filled by gubernatorial appointment, the Judicial Nominating Committee must first submit a list of nominees to the governor from which the governor makes an appointment. Whether the vacancy is filled by a special election or by appointment, the person filling the judicial vacancy serves only until the next general election. The person elected to the office at the general election serves for the remainder of the unexpired term.

Vacancies in the various county courts are filled by the board of county commissioners of the county where the vacancy occurs or by a special election called by the board of county commissioners. If the county commissioners choose to fill the vacancy by appointment, they must select from a list of nominees submitted by the Judicial Nominating Committee.

If a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

Under the North Dakota Constitution only supreme court justices and district court judges can be removed from office by impeachment. All judges, however, are subject to removal, censure, suspension, retirement or other disciplinary action for misconduct by the supreme court upon the recommendation of the Judicial Qualifications Commission. Other methods for the retirement, removal and discipline of judges can be established by the legislature.

**Caseload Overview**

The table below shows a decline in case filings in all courts except the district court which showed a 3% gain. The supreme court and district courts disposed of more cases in 1985 than in 1984, while county courts showed a 7% decrease in case dispositions from 1984 to 1985. Pending cases at years end increased slightly for all courts.

CASELOAD OVERVIEW OF NORTH DAKOTA COURTS
FOR 1984 AND 1985

| Level of Court | Filings 1985 | Filings 1984 | Dispositions 1985 | Dispositions 1984 | Pending at Year's End 1985 | Pending at Year's End 1984 |
|---|---|---|---|---|---|---|
| Supreme Court | 338 | 370 | 335 | 331 | 200 | 197 |
| District Courts | 16,979 | 16,396 | 16,670 | 15,978 | 7,235 | 6,926 |
| County Courts | 90,977 | 96,876 | 90,818 | 97,868 | 18,443 | 18,284 |
| Municipal Courts | 47,799 | 49,987 | 47,799 | 49,987 | 0 | 0 |
| TOTAL | 150,093 | 163,629 | 155,622 | 164,164 | 25,878 | 25,418 |

*(1) Figures from page 7*
*(2) Figures taken from page 10*
*(3) Figures taken from page 24*
*(4) Figures taken from page 26*

* *Corrected figure. The 1984 Annual Report erroneously reported 18,295 cases at year end.*

# Supreme Court of North Dakota

**Left to right: (Sitting) Justice Beryl J. Levine; Chief Justice Ralph J. Erickstad; and Justice Herbert L. Meschke; (Standing) Justice H.F. Gierke and Justice Gerald W. VandeWalle.**

The North Dakota Supreme Court has five justices. Each justice is elected for a ten-year term in a nonpartisan election. The terms of the justices are staggered so that only one judgeship is scheduled for election every two years. Each justice must be a licensed attorney and a citizen of the United States and North Dakota.

One member of the supreme court is selected as chief justice by the justices of the supreme court and the district court judges. The chief justice's term is for five years or until the justice's elected term on the court expires. The chief justice's duties include presiding over supreme court conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court is the highest court for the State of North Dakota. It has two major types of responsibilities: (1) adjudicative and (2) administrative.

In its adjudicative capacity, the supreme court is primarily an appellate court with jurisdiction to hear appeals from decisions of the district courts and the county courts. All appeals from these courts must be accepted for review by the court. In addition, the court also has original jurisdiction authority and can issue such original and remedial writs as are necessary to exercise this authority.

The state constitution requires that a quorum, composed of a majority of the justices, is necessary before the court can conduct its judicial business. It also stipulates that the court cannot declare a legislative enactment unconstitutional unless four of the justices so decide. When the court decides an appeal, it is required to issue a written opinion stating the rationale for its decision. Any justice disagreeing with the majority decision may issue a dissenting opinion which explains the reasons for the disagreement with the majority. In 1985 the supreme court approved amendments to the Rules of Appellate Procedure which will allow the court to summarily affirm a decision of a lower court without issuing a full opinion in the case. The amendment is designed to increase the efficiency of the court in reviewing those cases on appeal which are frivolous or without merit. The amendment goes into effect on March 1, 1986.

In its administrative capacity, the supreme court has major responsibilities for ensuring the efficient and effective operation of all nonfederal courts in the state, maintaining high standards of judicial conduct, supervising the legal profession, and promulgating procedural rules which allow for the orderly and efficient transaction of judicial business. Within each area of administrative responsibility, the court has general rulemaking authority.

The court carries out its administrative responsibilities with the assistance of various committees and boards. It exercises its authority to admit and license attorneys through the State Bar Board. Its supervision of legal ethics is exercised through the Disciplinary Board of the Supreme Court and its supervision of judicial conduct is exercised through the Judicial Conduct Commission. Continuing review and study of specific subject areas within its administrative jurisdiction is provided through four advisory committees-the Joint Procedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee, and the Court Services Administration Committee. Other committees, such as the Judicial Planning Committee and the Judicial Training Committee also provide valuable assistance to the supreme court in important administrative areas.

Administrative personnel of the supreme court also play a vital role in helping the court fulfill its administrative functions. The clerk of the supreme court supervises the calendaring and assignment of cases, oversees the distribution and publication of supreme court opinions and administrative rules and orders, and decides certain procedural motions filed with the court. The state court administrator assists the court in the preparation of the judicial budget, prepares statistical reports on the workload of the state's courts, provides judicial educational services, and performs such other administrative duties that are assigned to him by the supreme court. The state law librarian supervises the operation of the state law library and serves as court bailiff when the court is in session.

# Supreme Court Caseload for Calendar Year 1985

*Joanne Eckroth, Deputy Clerk of the Supreme Court*

Following a record year in 1984, the Supreme Court saw a slight decline in the filing of new cases in 1985. However, the total cases before the Court for consideration, that is, new cases filed plus cases carried over from the previous calendar year, were 535 in 1985 compared to 528 in 1984, a slight increase.

## CASELOAD SYNOPSIS OF THE SUPREME COURT FOR THE 1984 AND 1985 CALENDAR YEARS

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 338 | 370 | - 8.6 |
| Civil | 262 | 277 | - 5.4 |
| Criminal | 76 | 93 | -18.3 |
| Filings Carried over from Previous Calendar Year | 197 | 158 | 24.7 |
| Civil | 156 | 122 | 27.9 |
| Criminal | 41 | 36 | 13.9 |
| Total Cases Docketed | 535 | 528 | 1.3 |
| Civil | 418 | 399 | 4.8 |
| Criminal | 117 | 129 | -9.3 |
| Dispositions | 335 | 331 | 1.2 |
| Civil | 262 | 243 | 7.8 |
| Criminal | 73 | 88 | -17.0 |
| Cases Pending as of December 31 | 200 | 197 | 1.5 |
| Civil | 156 | 156 | 0.0 |
| Criminal | 44 | 41 | 7.3 |

The Court disposed of 335 cases in 1985. Of these, 262 were civil cases and 73 were criminal. There were 221 written opinions of the Court which disposed of 243 cases. In addition 42 dissenting or concurring opinions were filed. Ninety-two cases were disposed of by order.

The Supreme Court affirmed the trial court by opinion in 114 civil appeals and 38 criminal appeals. Reversals or reversals with remand or modification were rendered by opinion in 48 civil cases and 13 criminal cases. Orders of dismissal were entered in 63 civil and 11 criminal cases.

| | Civil | Criminal |
|---|---|---|
| BY OPINION: | | |
| Affirmed; Modified and Affirmed | 114 | 38 |
| Reversed; Reversed an Remanded; Reversed and Modified | 48 | 13 |
| Affirmed in Part and Reversed in Part | 13 | |
| Judgment Vacated and Remanded | 1 | |
| Dismissed | 4 | 4 |
| Discipline Imposed | 2 | |
| Original Jurisdiction — Granted | 3 | |
| Original Jurisdiction — Denied | 2 | 1 |
| Dispositions by Opinion | 187 | 56 |
| BY ORDER: | | |
| Dismissed | 63 | 11 |
| Discipline Imposed | 4 | |
| Original Jurisdiction — Granted | | 1 |
| Original Jurisdiction — Denied | 8 | 5 |
| Dispositions by Order | 75 | 17 |
| Total Dispositions for 1985 | 262 | 73 |

According to the Rules of Appellate Procedure, the full time to perfect a civil case is 180 days from the filing of the Notice of Entry of Judgment in the trial court to filing the record and briefs in the Supreme Court. In criminal cases the time allowed by the rules is 130 days. In 1985 the average actual time to perfect an appeal in a civil case was 174 days and in a criminal case, 139 days. The time from hearing the case to decision by the Court increased in 1985 for both civil and criminal cases to 68 days in civil cases and 73 days in criminal cases.

In addition to appeals, the Court considers many administrative matters. Of these the full Court considered 234, the Administrative Judge (Chief Justice or Acting Justice) ruled on 155 matters and the Clerk under authority granted by the Supreme Court ruled on 138 motions.

The Supreme Court attained an historic milestone in 1985 with the appointment of the first female justice to the Supreme Court bench. Justice Beryl J. Levine joined Justice Herbert L. Meschke

## COMPARISON OF THE TIME PRESCRIBED IN THE RULES FOR PERFECTING AN APPEAL AND THE ACTUAL TIME USED (IN DAYS)

| | Prescribed by Rules | | Average Actual Time 1983 | | Average Actual Time 1984 | | Average Actual Time 1985 | |
|---|---|---|---|---|---|---|---|---|
| | Civil | Criminal | Civil | Criminal | Civil | Criminal | Civil | Criminal |
| From filing Entry of Judgment to filing Notice of Appeal | 60 | 10 | 43 | 12 | 42 | 8 | 44 | 11 |
| From filing Notice of Appeal to filing of Complete Record | 50 | 50 | 47 | 54 | 52 | 44 | 51 | 43 |
| From filing of Complete Record to filing Appellant's Briefs | 40 | 0 | 44 | 53 | 44 | 51 | 46 | 50 |
| From filing Appellant's Briefs to filing Appellee's Briefs | 30 | 30 | 32 | 35 | 32 | 36 | 33 | 35 |
| From At Issue (case ready for calendaring) to hearing | N/A | N/A | 48 | 45 | 48 | 52 | 52 | 56 |
| From Hearing to Decision | N/A | N/A | 52 | 50 | 49 | 63 | 68 | 73 |

as one of the two newest members of the Court. They replaced Justice Vernon R. Pederson who retired and Justice Paul M. Sand who was deceased. The three remaining members of the Court are Chief Justice, Ralph J. Erickstad and Justices, Gerald W. VandeWalle and H.F. Gierke III.

The Court spent 69 days in Court, hearing arguments in 239 cases. Both figures are lower than in 1984 for two reasons. First, no Court term was held in January because the two new justices did not assume office until February and, second, this was the first year that the Court limited each term to a maximum of 30 cases.

# District Courts

There is a district court in each of the state's fifty-three counties. They have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal felony cases and have concurrent original jurisdiction with the county courts in all criminal misdemeanor cases.

The district courts also serve as the juvenile courts in the state. Under Chapter 27-20, NDCC, which enacted the Uniform Juvenile Court Act, the juvenile court has exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived. This jurisdiction was expanded in 1981 when the Legislature adopted legislation granting the juvenile court jurisdiction over all cases where a female minor is seeking judicial authorization to obtain an abortion without parental consent. Unlike a majority of the other states, the responsibility of supervising and counseling juveniles who have been brought into juveniles court lies with the judicial branch of government in North Dakota. To meet these responsibilities, the presiding judge of each judicial district has the authority to appoint juvenile supervisors, probation officers, and other support personnel. The juvenile employees must perform their responsibilities independent of the judges who preside in juvenile court in order to preserve the judges' impartiality. In addition to these personnel, the presiding judge may also appoint referees in lieu of district court judges to preside over juvenile proceedings, judgment enforcement proceedings, and domestic relations proceedings other than contested divorces.

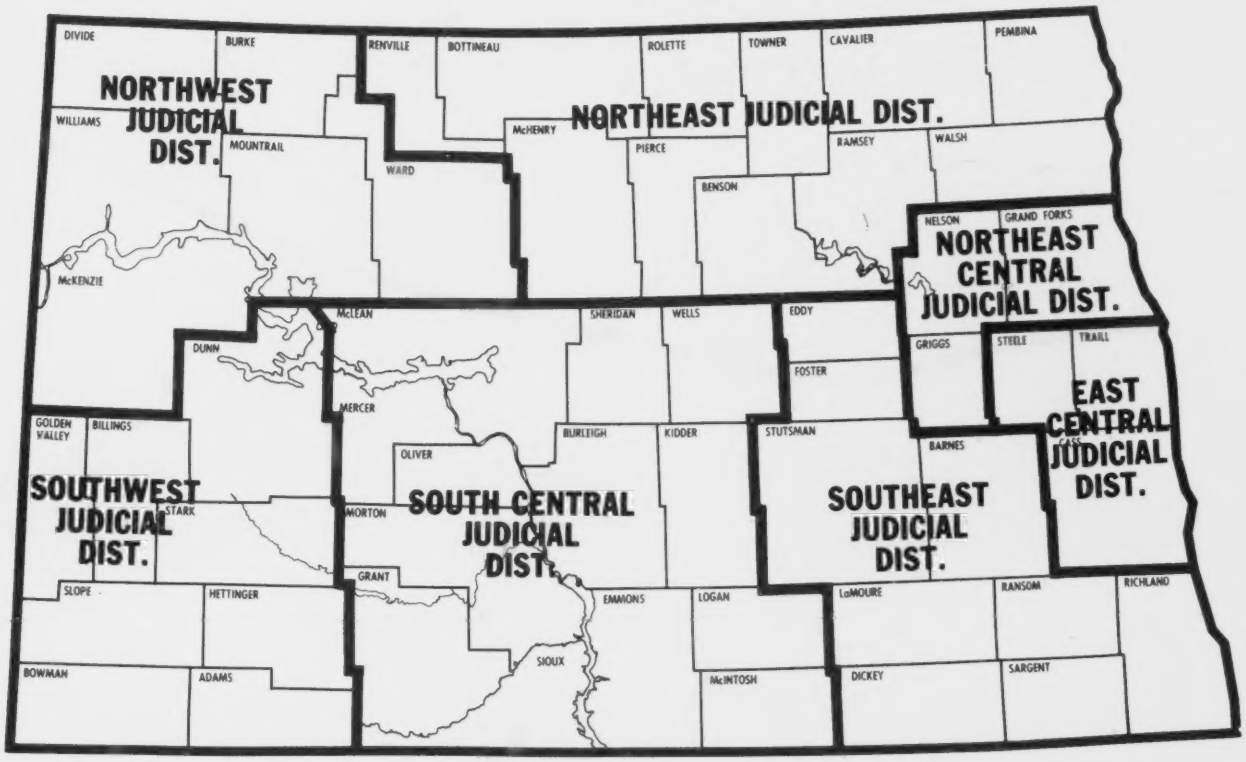
The district courts are also the appellate courts of first instance for appeals from the decisions of many administrative agencies. Acting in this appellate capacity, they do not conduct a retrial of the case. Their decisions are based on a review of the record of the administrative proceeding conducted by the administrative agency under review.

In 1979 the supreme court divided the state into seven judicial districts. In each judicial district there is a presiding judge who acts as the chief judicial administrator for the district. All presiding judges are appointed by the chief justice with the approval of the supreme court. The duties of the presiding judge, as established by the supreme court, include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases among the judges of the district, and assigning judges within the judicial district in cases of demand for change of judge.

There are twenty-six district judges in the state. The South Central Judicial District and the Northwest Judicial District each have five judges, the East Central Judicial District has four judges, and each of the remaining four judicial districts has three district judges. All district court judges are required by the state constitution to be licensed North Dakota attorneys and citizens of the United States and North Dakota.

The office of district court judge is an elected position filled every six years in a nonpartisan election held in the district in which the judge will serve. If a vacancy occurs, the governor may either fill the vacancy by appointing a candidate from a list of nominees submitted by a Judicial Nominating Committee or by calling a special election to fill the vacancy. If the vacancy is filled by the nomination process, the appointed judge serves until the next general election, at which time the office is filled by election for the remainder of the term.

NORTH DAKOTA JUDICIAL DISTRICTS



# District Court Caseload

The district court caseload continued to show the gradual increase in filing that has been evident since 1980. There was a 3.6% increase in new filings, compared with a 4.3% increase in dispositions.

The three major components of the district court caseload have remained stable in comparison with previous years. The civil component continues to be the largest category of cases making up 84% of the district court filings. Criminal and juvenile filings each contribute 8% of the district court caseload. These percentages have been very similar since 1980.

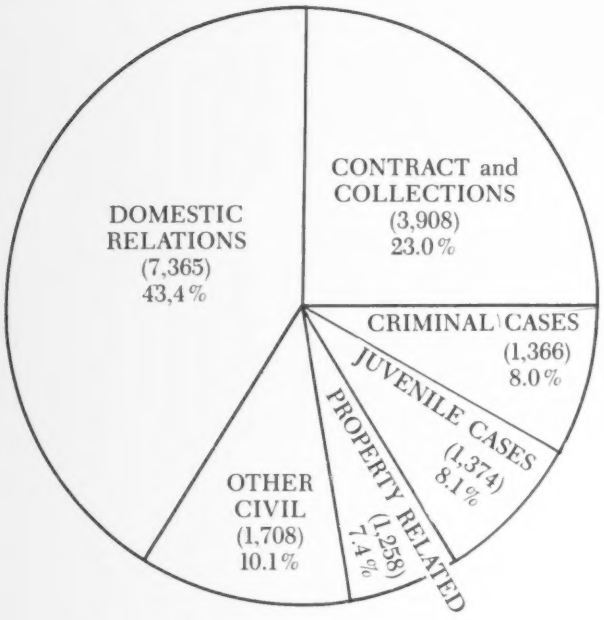
There were increased filings in four districts, the Northeast Central (303 cases), the East Central (146 cases), the South Central (243 cases) and the Southwest (15 cases). The three remaining districts showed small decreases in filings, no district showed a drop of more than 55 cases. The overall increase or decrease of filings is generally reflective of the civil filing within each district.

The percentages of increases or decreases of criminal cases varies greatly from year to year. However, the small number of cases makes comparisons of percentages misleading. The South Central District showed the largest increase in criminal filings, 320 filings in 1985 up 57 filings from 1984. Meanwhile, the Northeast Central showed an increase of 24 filings, the Southwest 10 filings and the East Central 4 filings. The remaining districts all showed a small decrease in filings, the Southeast dropped from 185 criminal filings in 1984 to 156 in 1985. The Northwest and the Northeast both saw decreases of less than 10 cases each in 1985.

The total number of dispositions increased by 698 cases (4.3%) in 1985. This raised the per judge average dispositions to 641 compared with 615 in 1984.

Despite the increase in dispositions, the increased filings resulted in 7,235 cases pending at the end of 1985 compared with 6,926 cases pending at the end of 1984.

### TYPES OF CASES FILED IN THE DISTRICT COURT DURING 1985


CONTRACT and COLLECTIONS (3,908) 23.0%
DOMESTIC RELATIONS (7,365) 43.4%
CRIMINAL CASES (1,366) 8.0%
JUVENILE CASES (1,374) 8.1%
PROPERTY RELATED (1,258) 7.4%
OTHER CIVIL (1,708) 10.1%

### DISTRICT COURT CASELOAD FOR CALENDAR YEARS 1984 AND 1985

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 16,979 | 16,396 | +3.6 |
| Civil | 14,239 | 13,734 | +3.7 |
| Criminal | 1,366 | 1,335 | +2.3 |
| Juvenile | 1,374 | 1,327 | +3.5 |
| Cases Carried Over From Previous Year | 6,926 | 6,508 | +6.4 |
| Civil | 6,507 | 6,151 | +5.8 |
| Criminal | 419 | 357 | +17.4 |
| Juvenile | — | — | — |
| Total Cases Docketed | 23,905 | 22,904 | +4.4 |
| Civil | 20,746 | 19,885 | +4.3 |
| Criminal | 1,785 | 1,692 | +5.5 |
| Juvenile | 1,374 | 1,327 | +3.5 |
| Dispositions | 16,670 | 15,978 | +4.3 |
| Civil | 13,912 | 13,378 | +4.0 |
| Criminal | 1,384 | 1,273 | +8.7 |
| Juvenile | 1,374 | 1,327 | +3.5 |
| Cases Pending as of December 31 | 7,235 | 6,926 | +4.5 |
| Civil | 6,834 | 6,507 | +5.0 |
| Criminal | 401 | 419 | -4.3 |
| Juvenile | — | — | — |

# Civil Caseload

Civil filings increased by 3.6%, continuing a relatively steady increase of the past several years. The increase in civil filings was evident in both county and district courts.

Within the civil caseload, domestic relation cases are most abundant, making up 51% of all civil filings. As a category, the domestic relations filings increased 9% from 1984. Child support actions make up 44% of the domestic relation cases, divorce 39%, adoption and paternity 5% each, adult abuse 3% and custody 1%. Significantly, adult abuse filings increased from 156 in 1984 to 236 in 1985, a 51% increase.

Also of significance was a 10% increase in child support hearings and a 6% increase in paternity cases. Both increases can be partly attributed to increased governmental efforts in insuring the financial responsibility of non-custodial parents.

The number of contract and collection filings decreased slightly (about 4%). However, the number of property related filings increased 26%, chiefly because foreclosure filing increased from 859 in 1984 to 1148 in 1985, a 35% increase.

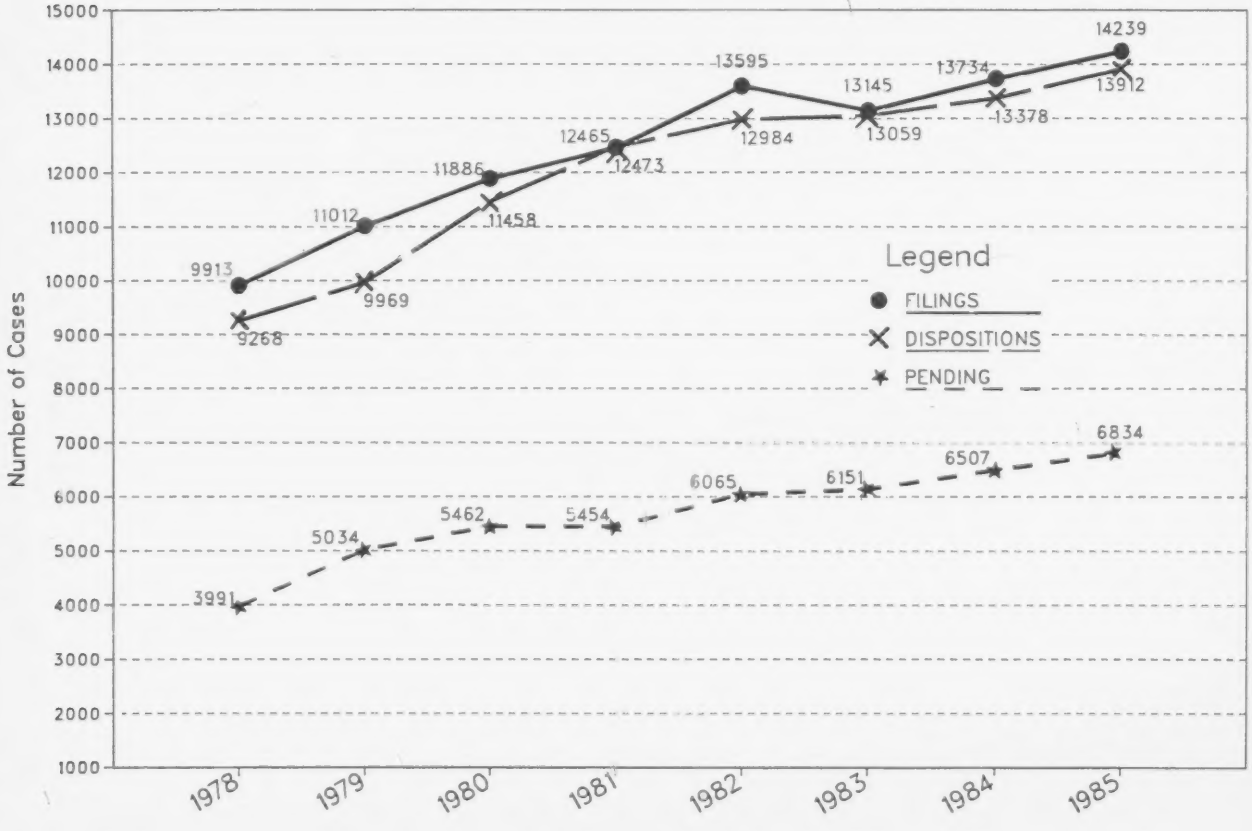
Nearly 600 more civil cases were disposed of in 1985 compared with 1984. Of the cases disposed, 23% were by trial. Of the cases disposed by trial, 3% were jury trials and 97% were court trials. The number of jury trials for civil matters increased from 71 in 1984 to 91 in 1985. This 30% increase may have a significant impact on the judiciary's budget.

The remaining 77% of the civil cases are classified as "not-contested," which is perhaps a misnomer. These cases often involve considerable judicial and support staff time in handling motions, conferences, briefs, etc. They are however, disposed of in some method other than by trial.

Even though civil dispositions increased in 1985, they were out paced by increased civil filings resulting in a 5% increase of pending cases. Though the workload increased, the district courts continue to process civil cases in a timely manner. Standards adopted by the Supreme Court require that a civil case be disposed of within 24 months of filing and within 90 days of a concluded trial. Certain types of cases such as trust cases and support cases are exempted from these standards because of the continuing nature of the cases. The standard may be waived for a specific case by the presiding judge of the district or by the Chief Justice if a district judge demonstrates good cause for the waiver.

Only 4 percent of the pending civil cases were more than 24 months old at year end. This is the same percentage as at the end of 1983 and 1984.

ND CIVIL CASELOAD COMPARISONS FOR
DISTRICT COURT FOR 1978-1985



# Criminal Caseload

North Dakota traditionally ranks as one of the lowest crime areas in the nation, (49th in 1984) especially for violent crime (50th for the last several years). This fact is reflected in the relatively small number of felony filings and in the types of felony charged.

Of all the criminal cases filed in district courts, 5% were felony A, 19% felony B, 72% felony C and 5% were infractions or other criminal filings. This proportion of cases has been relatively constant over the last several years.

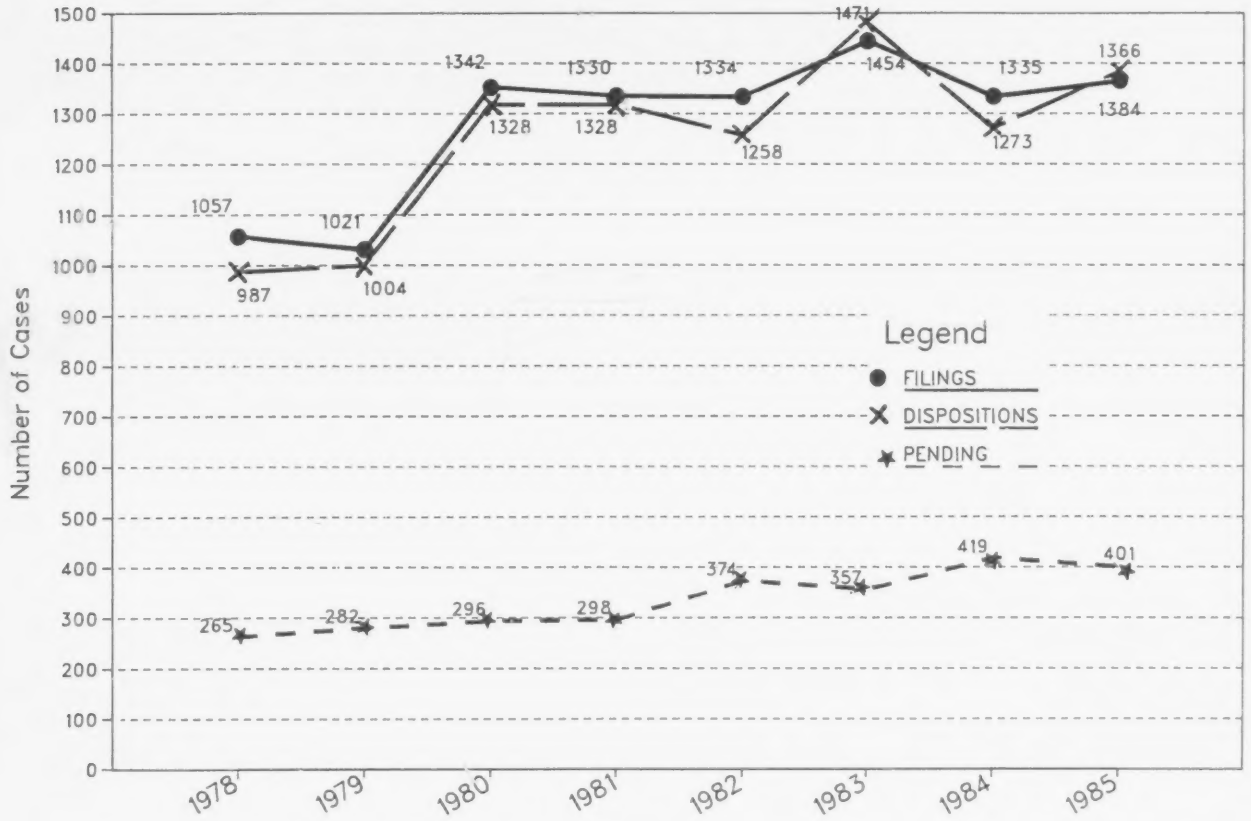
In 1985 there was a 2.3% increase in criminal filings (31 cases). As can be seen from the chart below, the number of felony filings has been stable since 1980, with the exception of 1983.

Statewide 27% of criminal cases were disposed of by trial. Jury trials accounted for 12% of the trials, or 45 cases. This compares with 46 jury trials in 1984.

As with civil cases, docket currency standards have been established for criminal cases. These standards require criminal cases to be decided within 120 days of the filing of the information or indictment in district court. The presiding judge of the district or the chief justice can waive these standards for specific cases if good cause is demonstrated. At the end of 1985 approximately 32 percent of the pending criminal cases failed to meet the 120 day standard set by the docket currency standards. By comparison, 33 percent of the criminal cases pending at the end of calendar year 1983 were older than 120 days and 40% of the criminal cases pending at the end of calendar year 1982 were older than 120 days.

The graph below shows the various trends since 1978 for criminal filings, dispositions, and pending cases.

CRIMINAL CASELOAD COMPARISON FOR
DISTRICT COURT FOR 1978-1985



# Juvenile Caseload

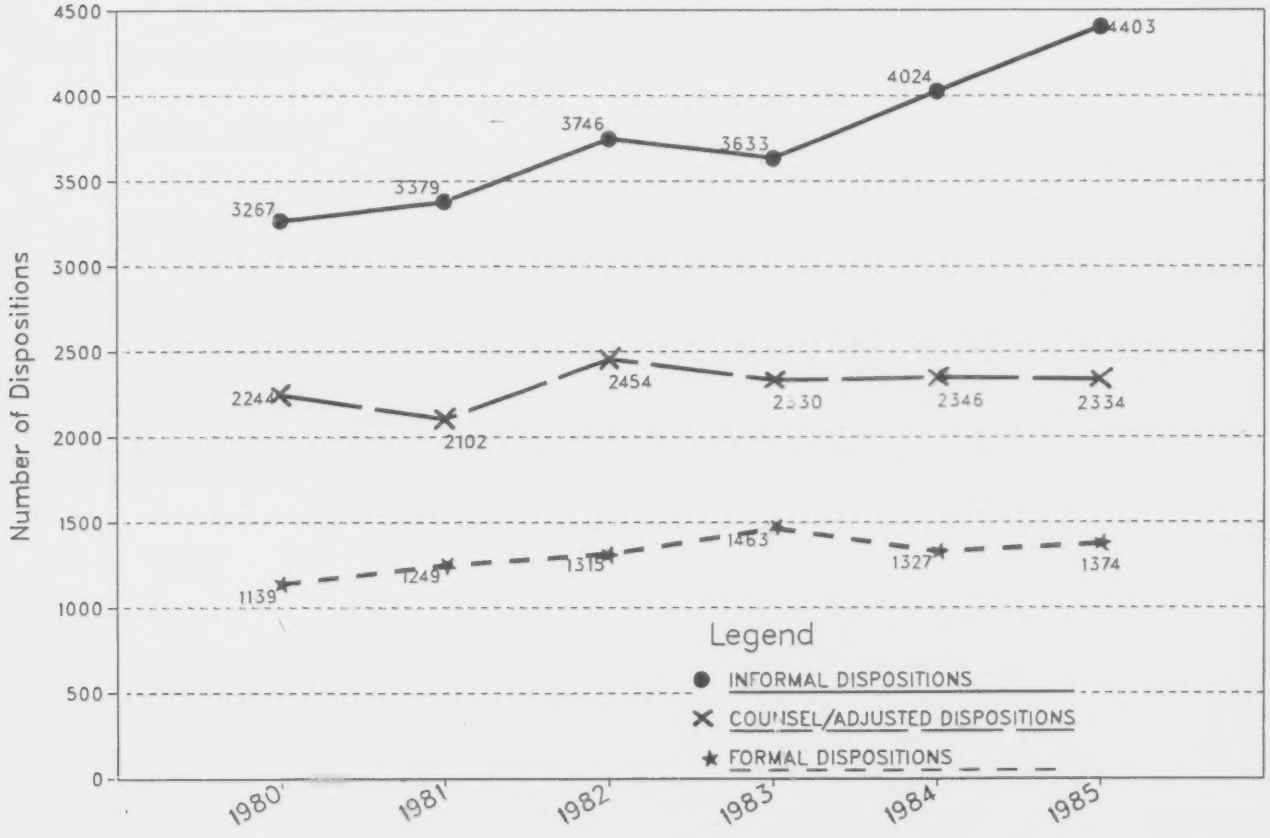
As with the criminal caseload, the low violent crime rate in North Dakota is reflected in the juvenile court caseload. Offenses against persons made up only 2% of the juvenile court caseload. Meanwhile, status offenses (offenses which only a child can commit) made up 13% of the caseload, offenses against property 34%, traffic offenses 6%, deprivation 18%, and other filings 24%.

The method by which cases were disposed of showed a slight increase in using informal supervision. In 1985, 54% of the cases were disposed of informally, 17% formally and 29% were counseled and adjusted. This compares with 52% informal, 17% formal and 31% counseled and adjusted in 1984.

Overall, the juvenile court caseload increased 3%, reflecting the trend of the last several years.

The table below compares the reasons for referral to juvenile court in 1984 and 1985. As in previous years, the illegal possession or purchase of alcoholic beverages continues to be the most common single reason for referral followed by misdemeanor thefts. Overall, the major reasons for referrals in 1985 have changed little from those recorded in 1984.

**COMPARISON OF JUVENILE DISPOSITIONS FOR 1980-1985**




**TYPES OF JUVENILE COURT DISPOSITIONS FOR 1984 AND 1985**

| Judicial District | Formal 1985 | Formal 1984 | Informal 1985 | Informal 1984 | Counsel/ Adjusted 1985 | Counsel/ Adjusted 1984 | Total Dispositions 1985 | Total Dispositions 1984 | Percent Difference For Total Dispositions |
|---|---|---|---|---|---|---|---|---|---|
| Northwest | 134 | 175 | 815 | 860 | 214 | 266 | 1,163 | 1,301 | -10.6 |
| Northeast | 190 | 204 | 353 | 347 | 513 | 410 | 1,056 | 961 | +9.9 |
| Northeast Central | 207 | 188 | 525 | 370 | 147 | 182 | 879 | 740 | +18.8 |
| East Central | 363 | 324 | 535 | 417 | 606 | 422 | 1,504 | 1,163 | +29.3 |
| Southeast | 156 | 185 | 461 | 485 | 246 | 288 | 863 | 958 | -9.9 |
| South Central | 284 | 211 | 1,591 | 1,400 | 418 | 548 | 2,293 | 2,159 | +6.2 |
| Southwest | 40 | 40 | 123 | 145 | 190 | 230 | 353 | 415 | -14.9 |
| TOTAL | 1,374 | 1,327 | 4,403 | 4,024 | 2,334 | 2,346 | 8,111 | 7,697 | +5.4 |

## REASON FOR REFERRAL TO JUVENILE COURT SERVICES IN 1984 AND 1985

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| UNRULY | 1,047 | 990 | +5.8 |
| Runaway-Instate | 307 | 313 | -1.9 |
| Runaway-out-of-state | 57 | 32 | +78 |
| Truancy | 145 | 146 | +0.7 |
| Ungovernable Behavior | 335 | 312 | -7.4 |
| Conduct/Control Violation | 48 | 29 | +65.5 |
| Curfew Violation | 117 | 111 | +5.4 |
| Other | 38 | 47 | -19.1 |
| DELINQUENCY | 5,110 | *4,767 | +7.2 |
| Offense Against Person | 186 | 196 | -5.1 |
| Assault | 104 | 90 | +15.6 |
| Homicide | 2 | 0 | +200 |
| Kidnapping | 2 | 0 | +200 |
| Sex Offense | 44 | 71 | -38 |
| Other | 34 | 35 | -2.9 |
| Offense Against Property | 2,612 | 2,550 | +2.4 |
| Arson | 14 | 22 | -36.4 |
| Burglary | 160 | 209 | -23.4 |
| Criminal Mischief | 436 | 403 | +8.2 |
| Criminal Trespass | 121 | 122 | -0.8 |
| Forgery | 64 | 53 | +20.8 |
| Robbery | 3 | 1 | +200 |
| Theft-Misdemeanor | 1,055 | 999 | +5.6 |
| Theft-Felony | 569 | 551 | +3.3 |
| Unauthorized Use of Vehicle | 75 | 87 | -13.8 |
| Other | 115 | 103 | +11.7 |
| Traffice Offenses | 473 | 502 | -5.8 |
| Driving l/o license | 369 | 419 | -12 |
| Negligent Homicide | 0 | 1 | -100 |
| Other | 104 | 82 | +26.8 |
| Other Offenses | 1,839 | 1,904 | -3.4 |
| Disorderly Conduct | 222 | 177 | +25.4 |
| Firearms | 58 | 33 | +75.8 |
| Game & Fish Violation | 28 | 83 | -66.3 |
| Obstruction of Law | 16 | 13 | +23.1 |
| Possession or Purchase of Alcoholic Beverage | 1,293 | 1,375 | -5.9 |
| Controlled Substance Violation | 119 | 100 | +19 |
| Other | 103 | 123 | -16.3 |
| DEPRIVATION | 1,485 | 1,265 | +17.4 |
| Abandoned | 4 | 6 | -33.3 |
| Abuse/Neglect | 873 | 794 | +10 |
| Deprived | 582 | 446 | +30.5 |
| Other | 26 | 19 | +36.8 |
| SPECIAL PROCEEDINGS | 124 | 132 | -6.1 |
| Involuntary Termination of Parental Rights | 7 | 3 | +133 |
| Voluntary Termination of Parental Rights | 92 | 84 | +9.5 |
| Other | 25 | 45 | -44.4 |
| TOTAL | 7,766 | 7,539 | +3.0 |

**Total delinquency cases for 1984 is 4,767. The 1984 Annual Report incorrectly showed 3,777 total delinquency cases on page 14.*

# Report of the Northwest Judicial District

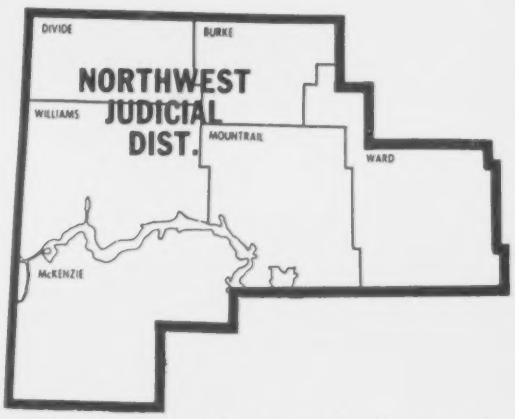
*The Honorable Wallace D. Berning, Presiding Judge*

*District Court Judges: Wallace D. Berning, Presiding Judge; Jon R. Kerian; Everett Nels Olson; William M. Beede; and Bert L. Wilson.*

*County Court Judges: Gary A. Holum; Gordon C. Thompson; Robert W. Holte; and William W. McLees, Jr.*

*Number of Counties in District: 6*

*District Court Chambers: Minot and Williston*




**Court Administration:**

Our district was saddened by the death of our friend, the Honorable Ralph W. Bekken, the County Judge for the counties of Burke, Divide and Mountrail, on June 27, 1985. As a result of his death it was necessary for the remaining judges in the district to do their best to handle his caseload. I want to thank the county and district judges of our district for their assistance in maintaining a semblance of currency on the case activity in Burke, Divide and Mountrail Counties. Robert Holte of Stanley was appointed Judge Bekken's successor and took office on November 1, 1985.

District Judges Beede and Wilson have primary responsibility for cases in Williams, Divide and McKenzie Counties. District Judges Berning, Olson and Kerian have primary responsibility for cases in Ward, Burke, and Mountrail Counties. There is periodic rotation, etc.

In Ward County Court Judge Gary Holum is utilizing the services of Referee Mark Flagstad for small claims litigation in Ward County. Judge McLees handles, by ad hoc assignment, additional cases in Williams County.

There is a concern in this district, as in other districts, throughout the state, regarding the lack of funding for appointment of indigent defense attorneys on DUI cases at the municipal court level. It is imperative this matter be addressed in order to enable the various municipal judges to properly administer DUI trials pursuant to recently enacted statutes which require, under certain circumstances, confinement.

William Blore has completed a year as referee, assisting in the handling of child support enforcement cases. Mr. Blore has also embarked upon an on-the-job training program to qualify as court administrator for the Northwest Judicial District.

It is significant to note that clerks of the Northwest Judicial District have received and processed child support payments of an amount in excess of $4,991,706. Most of these payments are in small monthly amounts reflecting an immense volume of activity and workload for the various Clerks of Court.

**Facilities:**

A complete remodeling of both the chambers for the juvenile court staff and the two large courtrooms in the Ward County Courthouse has been completed. The new jail facility in Minot, one of the best in the state, is now operational and is functioning smoothly. There has also been extensive remodeling of the juvenile office in Williams County. Remodeling of the Williams County jail was completed this year. Audio-visual equipment has been installed and a new recreational area was constructed. The Williams County jail has implemented a G.E.D. program with the cooperation of University of North Dakota—Williston Center. The administration of Williams County jail has also arranged for Alcoholics Anonymous and Narcotics Anonymous programs to be available to appropriate inmates. Both the Ward County jail and Williams County jail are actively participating with work release programs for deserving inmates.

**Juvenile Court:**

Two new probation officers have been added to the juvenile staff in the Northwest Judicial District. They are Suzanne Wasfaret (Williston) and Scott Dewald (Minot). The District Juvenile Court staffs have collected approximately $12,000 in restitution to emphasize accountability of juvenile offenders and continued victim restitution emphasis.

The placement of juveniles outside of their respective school districts has imposed a financial burden on the respective school districts in the Northwest Judicial District. In an attempt to minimize that problem, contacts have been made with the various agencies involved with juveniles.

**NORTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1984 AND 1985**

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 2,858 | 2,912 | -1.9 |
| Civil | 2,476 | 2,483 | -.28 |
| Criminal | 248 | 254 | -2.4 |
| Juvenile | 134 | 175 | -23.4 |
| Cases Carried Over From Previous Year | 1,033 | 950 | +8.7 |
| Civil | 972 | 912 | +6.6 |
| Criminal | 61 | 38 | +60.5 |
| Juvenile | — | — | — |
| Total Cases Docketed | 3,891 | 3,862 | +.75 |
| Civil | 3,448 | 3,395 | +1.6 |
| Criminal | 309 | 292 | +5.8 |
| Juvenile | 134 | 175 | -23.4 |
| Dispositions | 2,798 | 2,829 | -1.1 |
| Civil | 2,401 | 2,423 | -.9 |
| Criminal | 263 | 231 | +13.9 |
| Juvenile | 134 | 175 | -23.4 |
| Cases Pending as of December 31 | 1,093 | 1,033 | +5.8 |
| Civil | 1,047 | 972 | +7.7 |
| Criminal | 46 | 61 | -24.6 |
| Juvenile | — | — | — |

# Report of the Northeast Judicial District

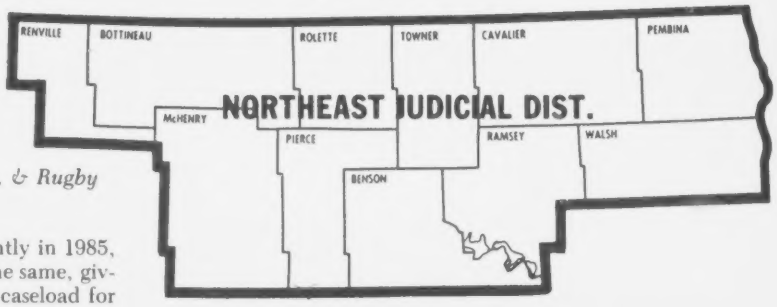
*The Honorable Douglas B. Heen, Presiding Judge*

*District Court Judges: Douglas B. Heen, William A. Neumann, and James O'Keefe.*

*County Court Judges: James M. Bekken, A.S. Benson, Thomas K. Metelmann, John C. McClintock, Ronald M. Dosch, and Theodore Weisenburger.*

*Number of Counties in District: 11*

*District Court Chambers: Devils Lake, Grafton, & Rugby*




**Caseload:**

While new filings in all categories dropped slightly in 1985, total cases docketed for the year remained nearly the same, giving the Northeast District a relatively unchanged caseload for calendar year 1985.

**Staff:**

A much-needed juvenile court probation officer was hired in 1985 to supervise juveniles in Rolette, Towner, Benson and Ramsey Counties.

1985 brought the announcement of retirement plans for two of the three of the District's full-time juvenile supervisor/referees in 1986. The departure of these hard-working, trusted friends and co-workers is going to require enormous, and most likely uncomfortable, readjustment within the District in the coming year. They will be missed, both professionally and personally.

**Facilities:**

Increased caseloads in several of our counties in the past decade have rendered obsolete the once familiar spring and fall terms of district court. It has now become necessary to conduct continuous terms of court in many of our counties, and to try cases throughout the year, no matter what the season or temperature.

One consequence of this development is a necessity in some counties for court facilities which can be used throughout the year. In the Northeast District, the Board of Commissioners of Pierce County is to be specially commended in this regard, for its efforts to develop year-round court facilities for its citizens.

**District Planning:**

1985 saw a welcome increase in the involvement of practicing attorneys and county and municipal judges in the formulation of the District's plan for the coming biennium. Such involvement can only serve to make the planning process more responsive and therefore more useful for all who utilize and participate in the judicial system in the Northeast Judicial District.

**NORTHEAST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1984 AND 1985**

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 1,557 | 1,612 | -3.4 |
| Civil | 1,225 | 1,262 | -2.9 |
| Criminal | 142 | 146 | -2.7 |
| Juvenile | 190 | 204 | -6.9 |
| Cases Carried Over From Previous Year | 767 | 698 | +9.9 |
| Civil | 689 | 642 | +7.3 |
| Criminal | 78 | 56 | +39.3 |
| Juvenile | — | — | — |
| Total Cases Docketed | 2,324 | 2,310 | +.60 |
| Civil | 1,914 | 1,904 | +.52 |
| Criminal | 220 | 202 | +8.9 |
| Juvenile | 190 | 204 | -6.9 |
| Dispositions | 1,578 | 1,543 | +2.3 |
| Civil | 1,239 | 1,215 | +2.0 |
| Criminal | 149 | 124 | +20.2 |
| Juvenile | 190 | 204 | -6.9 |
| Cases Pending as of December 31 | 746 | 767 | -2.7 |
| Civil | 675 | 689 | -2.0 |
| Criminal | 71 | 78 | -8.9 |
| Juvenile | — | — | — |

# Report of the Northeast Central Judicial District

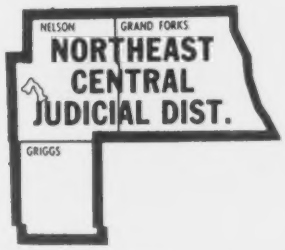
*The Honorable A.C. Bakken, Presiding Judge*
*Pat Thompson, Court Administrator*

*District Court Judges: A.C. Bakken, Presiding Judge; Joel D. Medd; and Kirk Smith.*

*County Court Judges: Frank J. Kosanda; Jonal H. Uglem; and Ronald Dosch.*

*Number of Counties in District: 3*

*District Court Chambers: Grand Forks*




**Annual Report:**

As a member of the Board of Directors of the American Judicature Society, Judge Kirk Smith attended the annual meeting in Chicago, August 7, and the midyear meeting in Detroit, February 15. Smith was also appointed chairman of the Judicial Immunity Committee of the North Dakota Judicial Conference. Judge Joel D. Medd was appointed as Chairman of the Civil Legal Services Committee.

**Advisory Committee:**

Membership of the Advisory Committee was increased from 3 to 5 by the appointment of Lloyd H. Noack, Municipal Judge for the City of Grand Forks, and Jonal Uglem, County Judge for Griggs County, North Dakota. Shirley Dvorak was reappointed to a three-year term to run until December 31, 1988. Other members of the Committee are Attorney Damon Anderson and Lloyd B. Omdahl, Director of the Bureau of Governmental Affairs.

**Public Defender Contracts Awarded:**

Public Defender Contracts for the 85-87 biennium covering services for District and Juvenile Courts for Griggs, Nelson and Grand Forks Counties were awarded to Attorneys Alan J. Larivee, Gary E. Euren, Richard W. Olson and the law firm of Kuchera, Stenehjem & Wills. The firms are paid specific fees monthly for their services, regardless of the caseload, which has reduced the cost of providing counsel for indigent defendants. A comparison of those costs discloses the Northeast Central Judicial District to have the lowest cost of the seven judicial districts during the 1983-85 biennium.

**Juvenile Court:**

Ms. Elizabeth Veeder was rehired to fill the probation officer position which was vacated by Jana Dowell. Veeder completed her 5-month field experience with Juvenile Court in 1978 and became a full-time staff member in 1979. She worked for Juvenile Court for 4 years before moving to Watford City.

Juvenile Court has had a restitution program since 1978. The total collected over the past 8 years is $61,472.47. Hugh Gallagher, Chief Probation Officer, is responsible for the restitution disbursement. Gallagher recently attended the National Juvenile Restitution Training Seminar in Kansas City, presented by RESTTA and sponsored by the U.S. Department of Justice.

Juvenile Court Office continues to be active with the Mayor's Community Task Force on Chemical Use and Awareness and works closely with service agencies in the community.

**Facilities:**

The Board of County Commissioners for Grand Forks County adopted a resolution during February, 1986, to proceed with a project which would provide the District Court with two jury courtrooms and a Judicial Referee's hearing room on the second floor of the county courthouse. The third floor of the county courthouse would be remodeled to provide one large jury courtroom which would also be available as a jury panel assembly room.

**Caseload:**

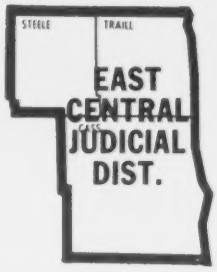
Statistics provided by the State Court Administrator's Office have shown a steady increase in filings in the Northeast Central Judicial District resulting in the highest statewide caseload per judge. In order to continue to maintain docket currency standards, it will be necessary to authorize another district judge and judicial referee for the next biennium.

**NORTHEAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1984 AND 1985**

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 2,458 | 2,155 | +14.1 |
| Civil | 2,093 | 1,833 | +14.2 |
| Criminal | 158 | 134 | +17.9 |
| Juvenile | 207 | 188 | +10.1 |
| Cases Carried Over From Previous Year | 937 | 804 | +16.5 |
| Civil | 907 | 788 | +15.1 |
| Criminal | 30 | 16 | +87.5 |
| Juvenile | — | — | — |
| Total Cases Docketed | 3,395 | 2,959 | +14.7 |
| Civil | 3,000 | 2,621 | +14.5 |
| Criminal | 188 | 150 | +25.3 |
| Juvenile | 207 | 188 | +10.1 |
| Dispositions | 2,350 | 2,022 | +16.2 |
| Civil | 1,996 | 1,714 | +16.5 |
| Criminal | 147 | 120 | +22.5 |
| Juvenile | 207 | 188 | +10.1 |
| Cases Pending as of December 31 | 1,045 | 937 | +11.5 |
| Civil | 1,004 | 907 | +10.7 |
| Criminal | 41 | 30 | +36.7 |
| Juvenile | — | — | — |

# Report of the East Central Judicial District

*The Honorable Norman J. Backes, Presiding Judge*
*Richard Sletten, Court Administrator*




*District Court Judges: Norman J. Backes, Presiding Judge; John O. Garaas; Lawrence A. Leclerc; and Michael O. McGuire.*
*County Court Judges: Donald J. Cooke; Cynthia A. Rothe; and Jonal Uglem*
*Number of Counties in District: 3*
*District Court Chambers: Fargo*

**Court Facilities:**

In November, 1985, Cass County began a building project which includes a new addition to the south of the courthouse and extensive remodeling of the existing building. Included in the remodeling plans for District Court is the addition of a much needed hearing room/courtroom. This additional space will allow individual work space for each District Judge. The District Court will then comprise of four courtrooms. Plans also include the remodeling of the library, an additional jury room, additional conference room, and newly designed administrative offices. The completion date for the remodeling project is scheduled for late spring of 1986.

**Case Flow Management:**

A computerized case flow management system is presently being utilized locally by the District Clerk of Court's office in conjunction with administrative offices of the District Court. All civil docket information in Cass County is being entered into the computer by the District Clerk's office. From this data base, a number of reports are being generated for case tracking purposes for use by the District Court. In addition, the computer is being used to randomly assign civil cases to the District Judges. Direct communications with the State's main frame is planned for March, 1986. A scheduling package is the next module to be designed and implemented. The computer project has been very time consuming; however, the modules are proving very helpful as case management tools.

Statistics show an increase in total filings compared to 1984. Case dispositions per judge have increased over the previous year and again were the highest in the state averaging 717 dispositions per judge.

**Juvenile Court:**

In 1985, a total of 1,178 cases were processed by the East Central Judicial District; an increase of 355 cases from 1984. The majority of the delinquent and unruly cases referred to this district were handled in an informal adjustment procedure. Additionally, deprivation cases referred to the court increased by 83 cases from the previous year.

Staff Probation officers for the District carry a caseload of approximately 35 cases each. In addition to caseloads, a restitution program is utilized by the court. Monetary restitution collected in the East Central Judicial District Juvenile Court totaled $9,619.00 in 1985.

There was a combination of the Domestic Relations division with the Juvenile Court Staff in December, 1985; all now being housed within the Juvenile Justice Center in Cass County. The combination of the two staffs has proven to be a more efficient use of support personnel.

**Community Involvement:**

In an effort to involve and educate local school children about the operations and function of the judicial system, the judges have given numerous lectures to grade school, junior high, and high school students. As in previous years, the District Court Judges participated in Moot Court and the trial advocacy program with the University of North Dakota School of Law.

**EAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1984 AND 1985**

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 3,409 | 3,253 | +4.8 |
| Civil | 2,786 | 2,673 | +4.2 |
| Criminal | 260 | 256 | +1.6 |
| Juvenile | 363 | 324 | +12 |
| Cases Carried Over From Previous Year | 1,448 | 1,382 | +4.8 |
| Civil | 1,380 | 1,322 | +4.4 |
| Criminal | 68 | *60 | +13.3 |
| Juvenile | — | — | — |
| Total Cases Docketed | 4,857 | 4,635 | +4.8 |
| Civil | 4,166 | 3,995 | +4.3 |
| Criminal | 328 | **316 | +3.8 |
| Juvenile | 363 | 324 | +12 |
| Dispositions | 3,229 | 3,187 | +1.3 |
| Civil | 2,612 | 2,615 | -.11 |
| Criminal | 254 | 248 | +2.4 |
| Juvenile | 363 | 324 | +12 |
| Cases Pending as of December 31 | 1,628 | 1,448 | +12.4 |
| Civil | 1,554 | 1,380 | +12.6 |
| Criminal | 74 | **68 | +3.6 |
| Juvenile | — | — | — |

* *A typographical error has been corrected here. The criminal case pending as of December 31, 1982 for the East Central Judicial District in the 1982 Annual Report, page 21 should read 60 cases. This typographical error does affect the calculated totals for 1982. This error was corrected on the 1983 Annual Report.*

** *A typographical error has been corrected here. The 1983 total criminal cases docketed for the East Central Judicial District in the 1983 Annual Report, page 20 and the 1984 Annual Report, page 18 should read 278 cases. The error does not affect the calculated totals for total cases docketed. However, criminal cases pending as of December 31, 1983 should read 60 cases.*

# Report of the Southeast Judicial District

*The Honorable Robert L. Eckert, Presiding Judge*
*Marguerite Aldrich, Court Administrator*

*District Court Judges: Robert L. Eckert, Presiding Judge; Gordon O. Hoberg; and John T. Paulson.*

*County Court Judges: James M. Bekken; C. James Cieminski; Harold B. Herseth; Bayard Lewis; Gary D. Neuharth; and Lowell O. Tjon.*

*Number of Counties in District: 9*

*District Court Chambers: Wahpeton, Jamestown and Valley City.*

**Facilities:**

The combined law enforcement center at Jamestown now under construction adjacent to the Stutsman County courthouse at a projected cost of $3.5 million is targeted for completion in the fall of 1986. It will house the county sheriff's department, city police department, state highway patrol, state crime bureau, state probation and parole office, state fire marshal, civil defense and, of primary importance, a new jail facility to provide adequate space to separate pre-trial, sentenced and violent inmates, adequate space to separate male and female prisoners and to separate juveniles from adults. The building was undertaken as a joint project of the City of Jamestown and Stutsman County because neither the city nor county facilities were adequate to satisfy legal obligations to inmates and could not be economically remodeled to meet state standards.

The Dickey County courthouse in Ellendale was spruced up for its 75th anniversary celebration on December 27, 1985. The facility underwent a thorough commercial cleaning and painting, all of the offices and the courtroom counsel area were carpeted, and a new chair was purchased for the county judge.

The Foster County courthouse in Carrington added a new rear entrance, completed in the fall of 1985. It is copper clad to match the main entrance, which was restored to its bright finish when workmen discovered during a maintenance cleaning that it was really copper which had been painted over some years before.

A new visiting judge's chamber was completed in the Richland County courthouse at Wahpeton. The room serves the dual purpose of providing an attorney/counsel consultation room when not in use by a visiting judge. In addition, a sound amplification system was installed in the Richland County district court courtroom with microphones at the judge's bench, witness stand and counsel tables. The system's speakers were placed in the ceiling and provide uniform sound reproduction throughout the courtroom.

New furniture was purchased for the judge's chambers in the Ransom County courthouse at Lisbon to provide facilities for the county and district judges and court reporters.

New telephone systems were installed in the offices of the district judges in Valley City and Wahpeton to provide intercom and transfer features unavailable with the prior systems. Compatible computer/word processing systems were purchased and installed in the offices of the district judges in Jamestown, Valley City and Wahpeton. A future goal of the district is to connect each office with the others via telephone modem to maintain daily case currency and scheduling processes through the district court administrator.

**Advisory Committee:**

The Advisory Committee on Local Court Rules, chaired by the district court administrator, held a meeting in Valley City on December 11, 1985, with all but two members present. The committee reviewed the progress on the district plan for the biennium just concluded and discussed and approved tasks currently being implemented and which need attention and implementation in the 1987-89 biennium.

**Case Load:**

The district court caseload is being studied by the district judges, the advisory committee and the district court administrator. Law clerk services are being considered for the district judges. The southeast district maintains general terms of the district court in each county. The non-jury civil and criminal cases in Richland, Ransom and Sargent counties are assigned to Judge Eckert. Similarly, cases in Stutsman, Foster and Eddy counties are assigned to Judge Hoberg, and cases in Barnes, Dickey and LaMoure counties are assigned to Judge Paulson. The jury terms in each county continue to be alternated between the three district judges.

**SOUTHEAST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1984 AND 1985**

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 1,796 | 1,821 | -1.4 |
| Civil | 1,525 | 1,467 | +4.0 |
| Criminal | 115 | 169 | -32 |
| Juvenile | 156 | 185 | -15.7 |
| Cases Carried Over From Previous Year | 698 | 672 | +3.9 |
| Civil | 636 | 625 | +1.8 |
| Criminal | 62 | 47 | +31.9 |
| Juvenile | — | — | — |
| Total Cases Docketed | 2,494 | 2,493 | +.04 |
| Civil | 2,161 | 2,092 | +3.3 |
| Criminal | 177 | 216 | -18.1 |
| Juvenile | 156 | 185 | -15.7 |
| Dispositions | 1,786 | 1,795 | -.5 |
| Civil | 1,504 | 1,456 | +3.3 |
| Criminal | 126 | 154 | -18.2 |
| Juvenile | 156 | 185 | -15.7 |
| Cases Pending as of December 31 | 708 | 698 | +1.4 |
| Civil | 657 | 636 | +3.3 |
| Criminal | 51 | 62 | -17.7 |
| Juvenile | — | — | — |

# Report of the South Central Judicial District

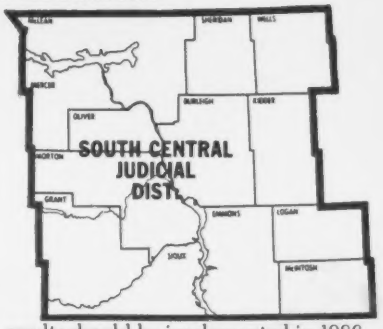
*The Honorable Benny A. Graff, Presiding Judge*
*Ted Gladden, Court Administrator*

*District Court Judges: Benny A. Graff, Presiding Judge; Gerald G. Glaser; Larry M. Hatch; William F. Hodny; and Dennis A. Schneider*

*County Court Judges: James M. Bekken; Donavin L. Grenz; Burt L. Riskedahl; Lester J. Schirado; and O.A. Schulz*

*Number of Counties in District: 13*

*District Court Chambers: Bismarck, Mandan; Linton*




**Court Administration:**

During calendar year 1985, the calendaring package was added to our automated case management system. This allows the Administrator's office to create a monthly trial calendar for each of the District Judges. This automated calendaring step makes the updating of the calendars, as case assignments change, much easier.

Scheduling procedures for Order To Show Cause hearings were changed in the four largest counties. In October, day certain scheduling was approved for cases in Burleigh County. The actual scheduling function was moved to the Clerk of District Court's office to increase the case setting capability, reducing the backlog that was beginning to develop. Once these procedures proved successful they were instituted in Mercer, McLean, and Morton Counties.

Even with the construction of the Burleigh County Courthouse, the Judges of the District Court finished the year with the Ready-For-Trial Calendar having less cases ready to be set than at the end of 1984. District wide, all cases are being heard on a timely basis.

Improved statistical reporting procedures for the Indigent Defense were initiated. This will assist the court in monitoring the workload as well as generating data for the next budget.

Quarterly fiscal reports are generated for the judges and director of Juvenile Courts Services. This will assist us in managing the District budget.

**Juvenile Court:**

In 1985, 2076 children were referred to the Juvenile Court. Of this number, 126 were disposed of through the filing of a petition and formal hearing. Referees heard 17 pre-trial motions on family law cases and conducted 611 Order To Show Cause hearings on support matters. In Burleigh and Morton Counties, referees held 307 and 157 hearings respectively. Of the total number of referrals to the Juvenile Court, 540 cases were deprivation proceedings. The Juvenile Court relies on the Bismarck Police Department Police Bureau for referral services in the Bismarck-Mandan communities. There were 565 cases referred to the Police Youth Bureau that were processed informally.

The clerical functions in Morton County and Burleigh County were consolidated in Bismarck. To facilitate record keeping, files of the two offices were integrated and converted to open-shelf lateral filing. Computer terminals were installed at each of the secretarial work stations to provide word processing capability.

**Clerk of Court:**

During the year, a one-day trial concept was initiated by the District and County Clerks of Court. Prospective jurors will have complied with service requirements of the South Central Judicial District, if one of the three criteria are met:

1. Serve on one jury;
2. Go through the voir dire process twice and not be chosen as a juror;
3. Be on the jury panel for 30 days and not be selected for a jury case.

While the new procedure will require processing more citizens, it should increase public satisfaction with jury service. A juror's time commitment will be reduced, especially in the more rural counties.

An independent evaluation of the records and case management needs of the Burleigh County Clerk of District Court and County Court was conducted. This study resulted from the perceived need to provide automation to improve the management of the child support workload in the Clerk of District Court's offices as well as the case management functions in the County Court's office. The study results should be implemented in 1986, when approved by the County Commission.

**Judicial Facilities:**

Final approval was received and construction commenced on the renovation and addition to the Burleigh County Courthouse. By year's end, the administrative areas for the Clerk of District Court, Juvenile Court, and District Court Administrator's offices were completed and occupied on the second floor. The new County Court Clerk area, two judge chambers, and the nonjury courtroom were completed and occupied on the second floor annex. The third floor annex addition was completed providing a nonjury and jury courtroom. 1986 will see completion of construction to the existing third floor. This is the last portion of the project to be completed.

Modest funds were approved for work in the Kidder County Courthouse to provide improved lighting and better air circulation in the courtroom. This is the first step in upgrading the judicial facilities in Kidder County.

Funds were approved for courtroom furniture replacement in the Logan County Courthouse.

**County Court:**

The caseload of the County Courts seems to have leveled off, generally. The exception to this remains in Burleigh County where the caseload is increasing. With the addition of the second County Judge in Burleigh County, this problem should be addressed adequately in 1986.

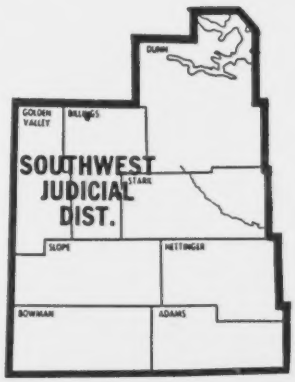
**SOUTH CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1984 AND 1985**

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 3,517 | 3,274 | +7.4 |
| Civil | 2,913 | 2,800 | +4.0 |
| Criminal | 320 | 263 | +21.7 |
| Juvenile | 284 | 211 | +34.6 |
| Cases Carried Over From Previous Year | 1,475 | 1,442 | +2.3 |
| Civil | 1,387 | 1,331 | +4.2 |
| Criminal | 88 | 111 | -20.7 |
| Juvenile | — | — | — |
| Total Cases Docketed | 4,992 | 4,716 | +5.9 |
| Civil | 4,300 | 4,131 | +4.1 |
| Criminal | 408 | 374 | +9.1 |
| Juvenile | 284 | 211 | +34.6 |
| Dispositions | 3,496 | 3,241 | +7.9 |
| Civil | 2,897 | 2,744 | +5.6 |
| Criminal | 315 | 286 | +10.1 |
| Juvenile | 284 | 211 | +34.6 |
| Cases Pending as of December 31 | 1,496 | 1,475 | +1.4 |
| Civil | 1,403 | 1,387 | +1.2 |
| Criminal | 93 | 88 | +5.7 |
| Juvenile | — | — | — |

# Report of the Southwest Judicial District

*The Honorable Maurice R. Hunke Presiding Judge*
*Ardean Ouellette, Court Administrator*

*District Court Judges: Maurice R. Hunke, Presiding Judge; Allan L. Schmalenberger; and Lyle C. Stuart.*
*County Court Judges: Tom Beyer; Donald L. Jorgenson; and F. Gene Gruber.*
*Number of Counties in District: 8*
*District Court Chambers: Dickinson and Hettinger*




**Stability and Uncertainty:**

The paradox of stability for the present but uncertainty about the future marked the end of 1985 in the Southwest District. Our caseload has remained remarkably stable since the record high year of 1982. However, included in the caseload statistics for the past two years have been a substantial number of mortgage foreclosure actions, primarily against residential properties in the city of Dickinson, the municipal center of our district.

Those mortgage foreclosures, along with a number of stress-induced domestic relations cases, are a measure of the economic problems in the southwest corner of North Dakota. While problems in the agricultural sector of the economy are experienced throughout the state, our area is saddled with the added burden of the severe depression in energy resource exploration and development. With the possibility that our dual economy might at least stabilize, if not improve, the tragedies represented by the high number of mortgage foreclosures should decline and our overall caseload may be reduced moderately in the year ahead.

**Planning Survey:**

During the past five years there were a great number of changes in the delivery of judicial services, some of which were common to the entire state but many unique to this district. In an effort to measure the impact and degree of acceptance of those changes, we recently concluded a management planning survey. Requests for comment, anonymously or signed, were distributed to a number of people within the district having frequent contact with the district, county or municipal courts. Those surveyed included court personnel, county commissioners and officials, legislators, attorneys, members of the news media, law enforcement and social service personnel, and jurors. Responses to the survey were generally quite positive and favorable to the Unified Judicial System and, with the exception of some dismay about the perceived cost of the county court system, indicated an acceptance of the various changes as improvements indeed.

The results of the planning survey combined with the reduced revenues for governmental units funding judicial services suggest that no significant changes will be proposed at this time and any long-range proposals having an adverse budgetary impact will be placed on hold.

**Personnel:**

Another indicator of stability during 1985 is the fact that this will be the first annual report during the past five years which does not announce any new faces among or additions to our judicial or support staff. We are in the process of an experiment in providing court reporter services to the presiding judge on an independent contractor basis compensated at an hourly rate rather than a full-time salaried court reporter. Because the presiding judge has an excellent judicial secretary available, the court reporter does not need to provide secretarial services as in the case of most district judgeships in North Dakota. The result is a substantial cost savings to the taxpayer but, with only six months' experience with the contract system, a full evaluation must be withheld until the next annual report.

**County Courts:**

The remarkably successful implementation and operation of the new county court system commented upon in last year's report continued through 1985. Our favorable assessment of county court operations seems supported by the fact that the two multi-county judge agreements in this district were renewed without significant change for another four-year term. The four counties of Adam, Bowman, Hettinger and Slope will continue to share one county judge as will the three counties of Billings, Dunn and Golden Valley. The respective incumbent judges for those counties, Hon. F. Gene Gruber and Hon. Tom M. Beyer as well as Stark County Judge Ronald L. Hilden have announced their intentions to seek reelection. All three of them deserve commendation again in this annual report for the commitment and cooperation they have demonstrated to the Unified Judicial System.

It is appropriate to conclude by noting that our planning survey revealed that an additional spin-off benefit of the multi-county judge agreements seems to be a greater uniformity of justice administered in county court matters. As one sheriff suggested in response to the survey, justice is no longer measured by the accident of in which county a litigation-creating incident may have occurred.

## SOUTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1984 AND 1985

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 1,384 | 1,369 | +1.1 |
| Civil | 1,221 | 1,216 | +.41 |
| Criminal | 123 | 113 | +8.8 |
| Juvenile | 40 | 40 | — |
| Cases Carried Over From Previous Year | 568 | 560 | +1.4 |
| Civil | 536 | 531 | +.94 |
| Criminal | 32 | 29 | +10.3 |
| Juvenile | — | — | — |
| Total Cases Docketed | 1,952 | 1,929 | +1.2 |
| Civil | 1,757 | 1,747 | +.57 |
| Criminal | 155 | 142 | +9.2 |
| Juvenile | 40 | 40 | — |
| Dispositions | 1,433 | 1,361 | +5.3 |
| Civil | 1,263 | 1,211 | +4.3 |
| Criminal | 130 | 110 | +18.2 |
| Juvenile | 40 | 40 | — |
| Cases Pending as of December 31 | 519 | 568 | -8.6 |
| Civil | 494 | 536 | -7.8 |
| Criminal | 25 | 32 | -21.9 |
| Juvenile | — | — | — |

# County Courts

County courts in North Dakota underwent a major transformation in 1983. A new uniform system of county courts took effect on January 1, 1983, and replaced the previous three-tier county court system. The new county courts differ from the old county courts in three other major aspects: 1) all county courts are now courts of records; 2) all county judgeships are now full-time positions; and 3) all county judges now must be legally trained. Under the old county court system most of the county courts were not court of records and many of the county judgeships were part-time positions staffed by laymen rather than licensed attorneys. As was the case under the old county court system, county courts under the new county court system are still funded by the counties.

There are 26 county judges in North Dakota. Fourteen of these judges serve more than one county. The legislation creating the new county court system authorized counties to contract with one another for the services of a single county judge. Through their contractual arrangements, called multi-county agreements, four county judges serve a two-county area, six county judges provide judicial services to a three-county area and four county judges render judicial services to a four-county area. Eleven counties have a single county judge and one county, Cass County, has two county judges. Most of the multi-county courts operate within the boundaries of a single judicial district. In three instances, however, the multi-county courts cut across the boundary lines of more than one judicial district. In one of the instances, a county judge serves four counties located in three different judicial districts.

Another unique feature of the new county court system is the county magistrate. Because many county judges serve more than one county, they cannot always be in each county when they are needed. To insure continuity in judicial services in absence, the judge can appoint a magistrate to handle preliminary matters in the county until the judge returns. Through an administrative rule the Supreme Court has established the qualifications, authority, and procedures governing magistrates. In several counties, the county judge has appointed the clerk of the district court as the magistrate for that county.

Like the old county courts, the new county courts are limited jurisdiction courts. They have original and exclusive jurisdiction in probate, testamentary, guardianship, and mental health cases. They have concurrent jurisdiction with municipal courts in traffic cases and concurrent jurisdiction with the district courts in trust, criminal misdemeanor, and civil cases where the amount in controversy does not exceed $10,000. County judges also preside at the preliminary hearing in criminal felony cases before the case is turned over to the district court. The 1985 Legislative Assembly also passed legislation effective on July 1, 1985, which allows the presiding district judge of each judicial district to assign a county judge to hear any district court case filed in their district.

County courts also act as small claims court in North Dakota. The jurisdictional limit for a small claims case is $1,500. There is no appeal from the decisions of the county court when it is acting in its capacity as a small claims court. All decisions of the county courts in such instances are final.

While the subject matter jurisdiction of the new county courts is equivalent to the subject matter jurisdiction of the old county courts, their jurisdictional limits are generally higher. For instance, no county courts under the old county court system had concurrent civil jurisdiction with district courts in cases where the amount of controversy exceeded $1,000. As stated above, the concurrent jurisdiction with the new county courts is up to $10,000. Similarly, the jurisdictional limit for small claims cases under the old county courts was $1,000 compared to $1,500 for the new county courts.

In establishing the new county court system, the Legislature vested county court judges with the same power and authority as district court judges. Moreover, the rules of practice and procedure governing district court proceedings also apply to county courts. Thus, both in terms of their jurisdiction and authority, county judges under the new county court system have greater judicial responsibilities and power than their predecessors.

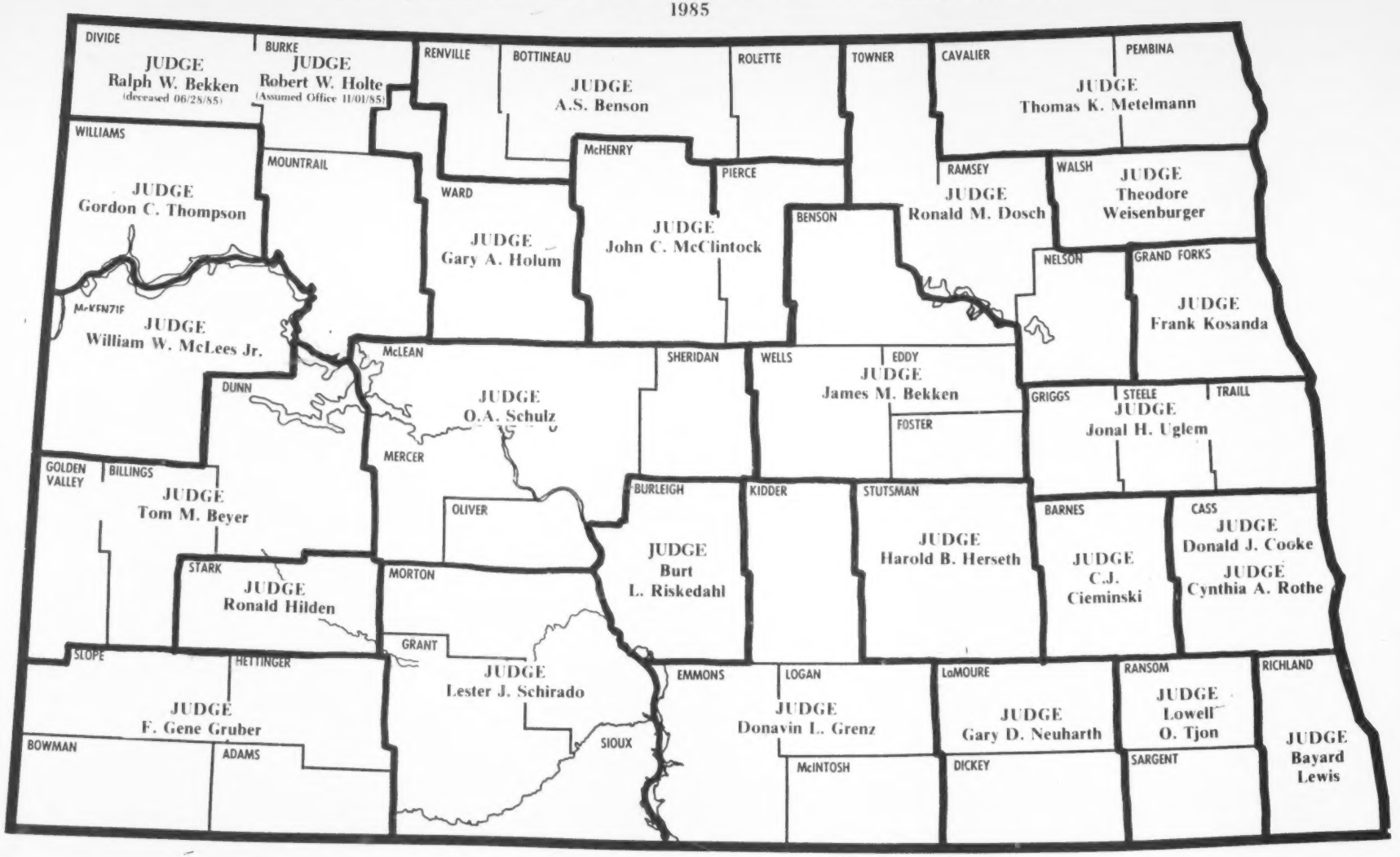
Appeals from the county court go directly to the Supreme Court. Under the old county court systems appeals from the county justice and county courts went to the district court while all appeals from county courts of increased jurisdiction went to the Supreme Court with the exception of probate cases, which were appealable to the district court.

In addition to its trial court duties, county courts also serve as the appellate courts for appeals from municipal courts. All appeals for municipal courts to county courts are trial de novo appeals. In other words, when a municipal court case is appealed to the county court, a new trial is held in the county court. New trials are required in county courts because municipal courts do not maintain official records of their proceedings.

The office of county judge is an elected position filled every four years in a nonpartisan election. If a vacancy occurs, the county commissioners can either fill the vacancy by selecting a candidate from a list of nominees submitted by a Judicial Nominating Committee or by calling a special election to fill the vacancy. If the vacancy is filled by the nomination process, the appointed judge only serves until the next general election, at which time the office is filled by election for the remainder of the term. In those counties which share the services of a county judge, the judge is elected by the eligible voters of the participating counties. The appointment of a county judge to serve a multi-county area must be approved by a majority vote of each board of county commissioners of the affected counties.

In counties with a population over 25,000, the county judge has the authority to appoint a clerk of county court. In counties with a population less than 25,000 the clerk of district court also serves as the clerk of county court.

## COUNTY JUDGES AND COUNTY COURT MULTI-COUNTY AGREEMENT AREAS
1985



# County Court Caseload

The breakdown of the county court caseload showed little change in the composition of county court dockets. The caseload continues to be predominately noncriminal traffic, followed by criminal, small claims, other civil and probate.

Overall, the number of filing and dispositions decreased slightly in 1984. The bulk of this decrease can be attributed to a 6,500 drop in the number of noncriminal traffic cases handled. Civil filings and dispositions continued to increase in 1985 (4.5% and 5% respectively.).

The number of mental health hearings increased by 9.6% and preliminary hearings in felony cases remained stable.

The rise from a jurisdictional limit of $1,500 to $2,000 for small claims actions may have contributed to a slight increase in small claims filings. Criminal misdemeanor cases also decreased a moderate (4%) in 1985.

All other types of cases increased slightly in 1985 reversing a slight downward trend in 1984.

**SYNOPSIS OF COUNTY COURT'S CASELOAD FOR 1984 AND 1985**

| | 1985 | 1984 | Percent Difference |
|---|---|---|---|
| New Filings | 90,977 | 96,876 | -6.1 |
| Civil | 19,629 | 18,782 | +4.5 |
| Criminal | 16,959 | 17,195 | -1.4 |
| Noncriminal Traffic | 54,389 | 60,899 | -10.7 |
| Cases Carried Over From Previous Year | 18,284 | 19,276 | -5.1 |
| Civil | 16,946 | 16,131 | +5.1 |
| Criminal | 1,338 | 3,145 | -57.5 |
| Noncriminal Traffic | — | — | — |
| Total Cases Docketed | 109,261 | 116,152 | -5.9 |
| Civil | 36,575 | 34,913 | 4.8 |
| Criminal | 18,297 | 20,340 | -10.0 |
| Noncriminal Traffic | 54,389 | 60,899 | -10.7 |
| Dispositions | 90,818 | 97,868 | -7.2 |
| Civil | 18,679 | 17,967 | +4.0 |
| Criminal | 17,750 | 19,002 | -6.6 |
| Noncriminal Traffic | 54,389 | 60,899 | -10.7 |
| Cases Pending as of December 31 | 18,443 | 18,284 | +0.1 |
| Civil | 17,896 | 16,946 | 5.6 |
| Criminal | 547 | 1,338 | -59 |
| Noncriminal Traffic | — | — | — |

**TYPES OF CASES FILED IN THE COUNTY COURT IN 1985**

## COUNTY COURT FILINGS AND DISPOSITIONS FOR 1985

| | Felony | | Misdemeanor | | Total Non-criminal Traffic | Small Claims | | Probate | | Guardianship/ Conservatorship | | Other Civil | | Mental Health & Emerg. Commit. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | (F) | (D) | (F) | (D) | | (F) | (D) | (F) | (D) | (F) | (D) | (F) | (D) | |
| Adams | 5 | 3 | 55 | 46 | 220 | 75 | 72 | 25 | 13 | 2 | 3 | 45 | 42 | 6 |
| Barnes | 62 | 61 | 449 | 511 | 2,055 | 278 | 376 | 73 | 232 | 10 | 2 | 37 | 37 | 133 |
| Benson | 6 | 3 | 162 | 157 | 941 | 107 | 99 | 38 | 25 | 2 | 0 | 54 | 59 | 4 |
| Billings | 5 | 1 | 57 | 62 | 797 | 13 | 13 | 14 | 11 | 0 | 0 | 6 | 6 | 2 |
| Bottineau | 15 | 17 | 195 | 210 | 773 | 134 | 129 | 74 | 54 | 7 | 3 | 69 | 66 | 21 |
| Bowman | 0 | 1 | 47 | 40 | 225 | 46 | 39 | 54 | 52 | 4 | 3 | 21 | 22 | 0 |
| Burke | 8 | 7 | 139 | 145 | 311 | 86 | 27 | 49 | 35 | 0 | 3 | 28 | 26 | 14 |
| Burleigh | 140 | 163 | 1,045 | 1,393 | 4,049 | 716 | 706 | 118 | 126 | 30 | 14 | 864 | 865 | 132 |
| Cass | 205 | 222 | 1,436 | 1,914 | 4,347 | 1,421 | 1,408 | 252 | 377 | 65 | 23 | 819 | 795 | 286 |
| Cavalier | 6 | 4 | 133 | 120 | 788 | 72 | 74 | 63 | 45 | 4 | 1 | 37 | 44 | 4 |
| Dickey | 2 | 1 | 83 | 72 | 267 | 152 | 195 | 27 | 20 | 2 | 1 | 45 | 45 | 3 |
| Divide | 3 | 0 | 71 | 70 | 258 | 22 | 21 | 64 | 33 | 11 | 8 | 15 | 17 | 2 |
| Dunn | 13 | 13 | 202 | 202 | 441 | 42 | 15 | 24 | 21 | 1 | 2 | 22 | 22 | 0 |
| Eddy | 1 | 1 | 89 | 91 | 100 | 68 | 67 | 20 | 19 | 3 | 0 | 1 | 1 | 2 |
| Emmons | 7 | 6 | 75 | 65 | 454 | 69 | 68 | 28 | 26 | 6 | 2 | 29 | 29 | 3 |
| Foster | 2 | 2 | 104 | 95 | 342 | 86 | 95 | 23 | 7 | 3 | 2 | 33 | 28 | 0 |
| Golden Valley | 3 | 1 | 20 | 19 | 142 | 11 | 5 | 33 | 20 | 7 | 0 | 29 | 28 | 0 |
| Grand Forks | 246 | 225 | 1,675 | 1,706 | 5,409 | 576 | 619 | 175 | 138 | 31 | 27 | 153 | 164 | 116 |
| Grant | 1 | 2 | 26 | 29 | 302 | 40 | 40 | 22 | 22 | 0 | 0 | 2 | 2 | 0 |
| Griggs | 18 | 18 | 76 | 72 | 486 | 35 | 33 | 26 | 11 | 5 | 1 | 12 | 9 | 2 |
| Hettinger | 3 | 2 | 55 | 55 | 184 | 23 | 22 | 22 | 28 | 4 | 10 | 29 | 28 | 5 |
| Kidder | 5 | 5 | 86 | 77 | 1157 | 32 | 30 | 20 | 22 | 2 | 2 | 21 | 20 | 1 |
| LaMoure | 10 | 11 | 83 | 83 | 348 | 133 | 123 | 35 | 47 | 1 | 0 | 39 | 38 | 3 |
| Logan | 6 | 5 | 26 | 26 | 239 | 15 | 15 | 18 | 15 | 5 | 0 | 14 | 15 | 3 |
| McHenry | 15 | 17 | 121 | 136 | 558 | 88 | 95 | 53 | 33 | 6 | 2 | 48 | 48 | 10 |
| McIntosh | 4 | 2 | 57 | 62 | 162 | 22 | 20 | 20 | 4 | 7 | 0 | 12 | 13 | 6 |
| McKenzie | 17 | 42 | 222 | 236 | 811 | 198 | 189 | 93 | 81 | 9 | 1 | 66 | 69 | 14 |
| McLean | 19 | 29 | 258 | 266 | 935 | 110 | 112 | 74 | 26 | 11 | 0 | 65 | 67 | 5 |
| Mercer | 23 | 22 | 434 | 491 | 1,374 | 145 | 156 | 50 | 22 | 7 | 1 | 127 | 129 | 11 |
| Morton | 60 | 60 | 569 | 438 | 3,774 | 435 | 404 | 76 | 37 | 40 | 12 | 345 | 321 | 44 |
| Mountrail | 8 | 9 | 184 | 186 | 783 | 89 | 80 | 77 | 62 | 9 | 4 | 34 | 35 | 7 |
| Nelson | 3 | 4 | 104 | 97 | 513 | 67 | 62 | 39 | 25 | 2 | 1 | 24 | 22 | 5 |
| Oliver | 2 | 2 | 38 | 41 | 277 | 12 | 11 | 17 | 21 | 2 | 4 | 6 | 7 | 0 |
| Pembina | 26 | 27 | 260 | 236 | 812 | 66 | 78 | 86 | 96 | 7 | 13 | 146 | 159 | 11 |
| Pierce | 20 | 24 | 136 | 164 | 268 | 77 | 68 | 55 | 30 | 10 | 6 | 47 | 49 | 9 |
| Ramsey | 43 | 43 | 725 | 705 | 2,512 | 283 | 287 | 68 | 39 | 24 | 0 | 84 | 84 | 35 |
| Ransom | 4 | 5 | 157 | 157 | 309 | 98 | 101 | 31 | 9 | 1 | 3 | 32 | 30 | 1 |
| Renville | 0 | 0 | 33 | 31 | 187 | 8 | 7 | 43 | 31 | 1 | 0 | 7 | 8 | 0 |
| Richland | 46 | 47 | 278 | 300 | 1,333 | 250 | 266 | 98 | 70 | 12 | 9 | 90 | 98 | 13 |
| Rolette | 26 | 29 | 276 | 309 | 769 | 72 | 68 | 52 | 20 | 34 | 30 | 41 | 40 | 3 |
| Sargent | 6 | 7 | 63 | 72 | 230 | 132 | 132 | 27 | 24 | 6 | 1 | 21 | 21 | 4 |
| Sheridan | 0 | 0 | 29 | 24 | 33 | 24 | 24 | 13 | 8 | 3 | 2 | 24 | 24 | 2 |
| Sioux | 0 | 0 | 0 | 0 | 14 | 5 | 4 | 8 | 6 | 0 | 2 | 1 | 0 | 0 |
| Slope | 6 | 4 | 32 | 32 | 128 | 1 | 1 | 19 | 16 | 4 | 12 | 3 | 3 | 0 |
| Stark | 102 | 112 | 846 | 911 | 3,266 | 511 | 517 | 91 | 72 | 16 | 1 | 363 | 373 | 51 |
| Steele | 1 | 1 | 44 | 41 | 232 | 18 | 16 | 23 | 28 | 4 | 0 | 5 | 4 | 0 |
| Stutsman | 45 | 48 | 835 | 843 | 2,256 | 193 | 202 | 81 | 59 | 22 | 0 | 205 | 198 | 207 |
| Towner | 12 | 12 | 125 | 118 | 663 | 69 | 58 | 32 | 23 | 6 | 4 | 47 | 41 | 5 |
| Traill | 25 | 26 | 201 | 212 | 481 | 161 | 162 | 86 | 46 | 7 | 1 | 60 | 61 | 1 |
| Walsh | 34 | 37 | 783 | 828 | 1,173 | 224 | 213 | 111 | 74 | 182 | 5 | 359 | 352 | 51 |
| Ward | 119 | 146 | 827 | 1,008 | 3,052 | 764 | 810 | 181 | 95 | 30 | 24 | 456 | 447 | 153 |
| Wells | 4 | 4 | 74 | 76 | 430 | 54 | 60 | 54 | 52 | 7 | 0 | 32 | 28 | 1 |
| Williams | 102 | 97 | 821 | 840 | 1,921 | 444 | 381 | 170 | 114 | 23 | 3 | 360 | 344 | 60 |
| TOTAL | 1,544 | 1,630 | 14,921 | 16,120 | 54,389 | 8,822 | 8,875 | 3,125 | 2,622 | 697 | 248 | 5,534 | 5,483 | 1,451 |

# Municipal Courts

There are 366 incorporated cities in North Dakota. Of the total municipalities, 161 cities have municipal courts. There are 148 judges serving these 161 municipalities. State law permits an individual to serve more than one city as a municipal judge.

In 1981 the Legislature amended the state law pertaining to municipalities to allow each municipality the option of deciding whether or not to have a municipal judge. Before this amendment, all incorporated municipalities were required to establish a municipal court. Despite this requirement, those incorporated cities which did not have a police force tended not to have a municipal court.

The municipal judges have exclusive jurisdiction of all violations of municipal ordinances, except certain violations involving juveniles. Violations of state law are not within the jurisdiction of the municipal courts.

A municipal judge is elected for a four-year term. He must be a qualified elector of the city, except in cities with a population below 3,000. In cities with a population of 3,000 or more the municipal judge is required to be a licensed attorney unless an attorney is unavailable or not interested in serving. At present, there are 19 legally-trained and 129 lay municipal judges in the state.

State law requires that each municipal judge attend at least one educational seminar per calendar year conducted by the supreme court. If a municipal judge fails to meet this requirement without an excused absence from the supreme court, his name is referred to the Judicial Qualifications Commission for such disciplinary action as is deemed appropriate by the Commission.

Most of the municipal courts' traffic caseload are noncriminal traffic cases or administrative traffic cases. In 1985 nearly 94 percent of the traffic cases processed by municipal courts were noncriminal traffic cases. While these cases greatly outnumber the criminal traffic cases, they generally take much less time to process. There is not only a lesser burden of proof in noncriminal traffic cases than in criminal cases, but most noncriminal traffic cases are disposed of by bond forfeitures. While no judge time is needed to process bond forfeitures, support personnel in the clerk's office must account for every citation received by the court.

Although criminal traffic cases compose only about 6 percent of the municipal courts' caseload, they require more time and resources for their disposition than noncriminal traffic cases. Litigants are more likely to demand a trial in criminal traffic cases since the penalties for violation of criminal traffic laws are more severe than violations of noncriminal traffic laws. Moreover, the prosecutor also has a greater burden of proof in criminal traffic cases than in noncriminal traffic cases. Whereas in noncriminal traffic cases the prosecutor has only to demonstrate a preponderance of evidence for conviction, in criminal traffic cases the prosecutor must prove each element of the charge beyond a reasonable doubt.

The majority (86%) of all traffic cases in the state are processed by ten communities containing about 40 percent of the state's population. Most of these communities experienced stable traffic dispositions in 1985. Dickinson, however, experienced a 40% decrease while Wahpeton had a 23% increase.

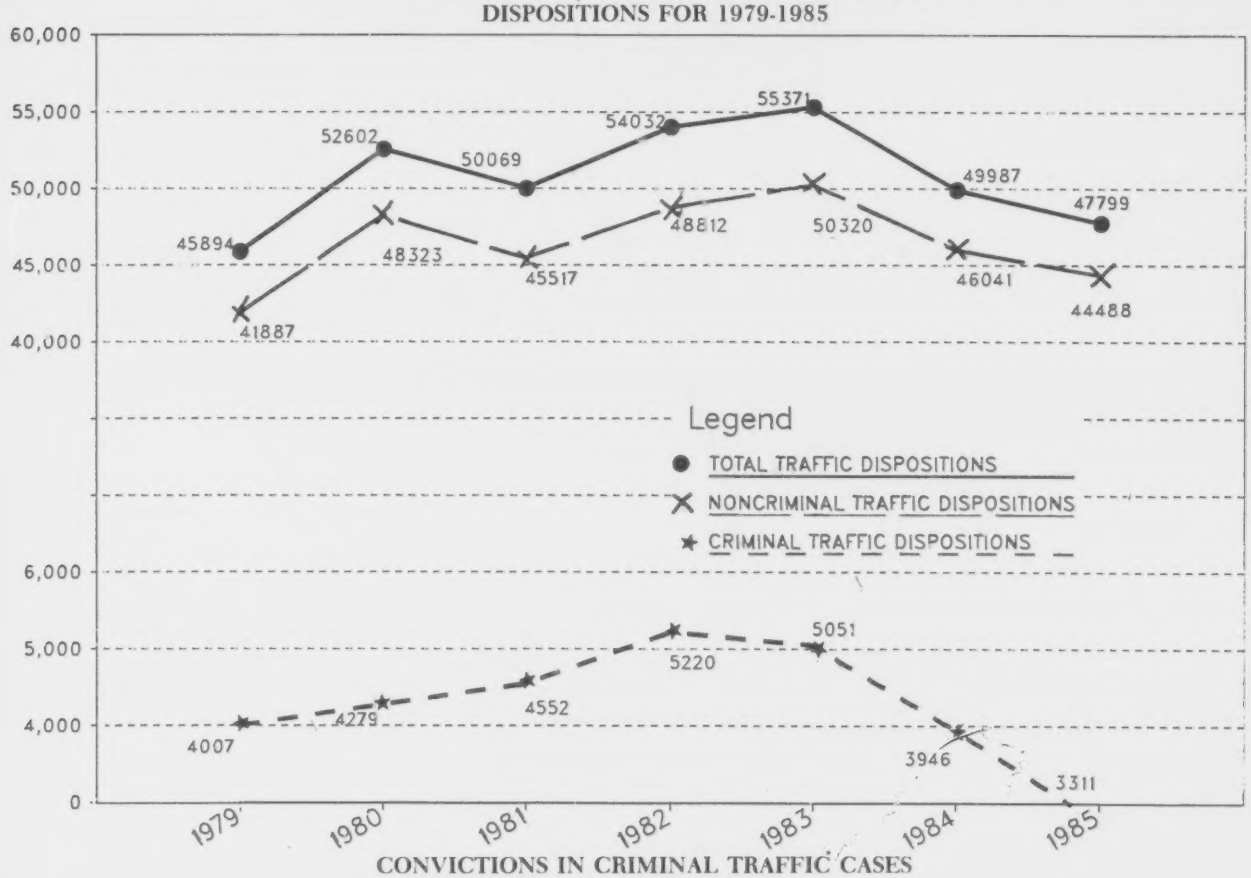
**COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR CALENDAR YEARS 1984 AND 1985**

| Type of Disposition | Criminal Traffic Dispositions | | Noncriminal Traffic Dispositions | | Total Traffic Dispositions | | Percent Difference |
|---|---|---|---|---|---|---|---|
| | 1985 | 1984 | 1985 | 1984 | 1985 | 1984 | |
| Convictions | 2,951 | 3,233 | 43,352 | 44,223 | 46,303 | 47,456 | -2.4 |
| Acquittals | | 677 | | 1,743 | | 2,420 | |
| Dismissal | 360 | 36 | 1,136 | 75 | 1,496 | 111 | -41 |
| TOTAL | 3,311 | 3,946 | 44,488 | 46,041 | 47,799 | 49,987 | -4.0 |

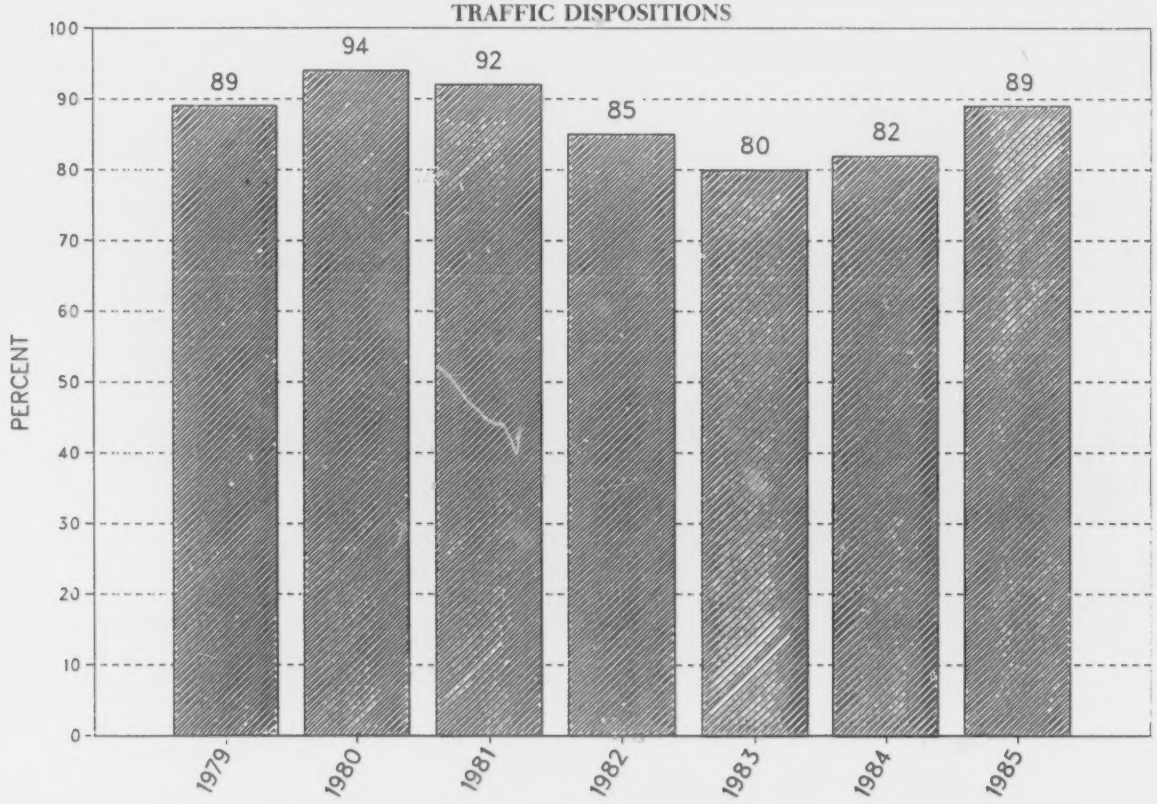
**COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR CALENDAR YEARS 1984 AND 1985**

| Ten Municipalities With Highest Case Volume | Criminal Traffic Dispositions | | Noncriminal Traffic Dispositions | | Total Traffic Dispositions | | Percent Difference |
|---|---|---|---|---|---|---|---|
| | 1985 | 1984 | 1985 | 1984 | 1985 | 1984 | |
| Bismarck | 283 | 453 | 5,669 | 5,921 | 5,952 | 6,374 | -6.6 |
| Dickinson | 101 | 200 | 1,498 | 2,443 | 1,599 | 2,643 | -39.5 |
| Fargo | 380 | 382 | 8,582 | 8,435 | 8,962 | 8,817 | +1.6 |
| Grand Forks | 422 | 431 | 2,233 | 2,746 | 2,655 | 3,177 | -16.4 |
| Jamestown | 92 | 109 | 2,829 | 2,726 | 2,921 | 2,835 | +3.0 |
| Mandan | 96 | 143 | 1,942 | 2,060 | 2,038 | 2,203 | -7.5 |
| Minot | 258 | 497 | 6,117 | 6,868 | 6,375 | 7,365 | -13.4 |
| Wahpeton | 119 | 129 | 755 | 578 | 874 | 707 | +23.6 |
| West Fargo | 106 | 134 | 833 | 842 | 939 | 976 | -3.8 |
| Williston | 335 | 285 | 4,385 | 4,245 | 4,720 | 4,530 | +4.2 |
| TOTAL | 2,192 | 2,763 | 34,843 | 36,864 | 37,035 | 39,627 | -6.5 |

## COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR 1979-1985




## CONVICTIONS IN CRIMINAL TRAFFIC CASES AS PERCENTAGE OF CRIMINAL TRAFFIC DISPOSITIONS



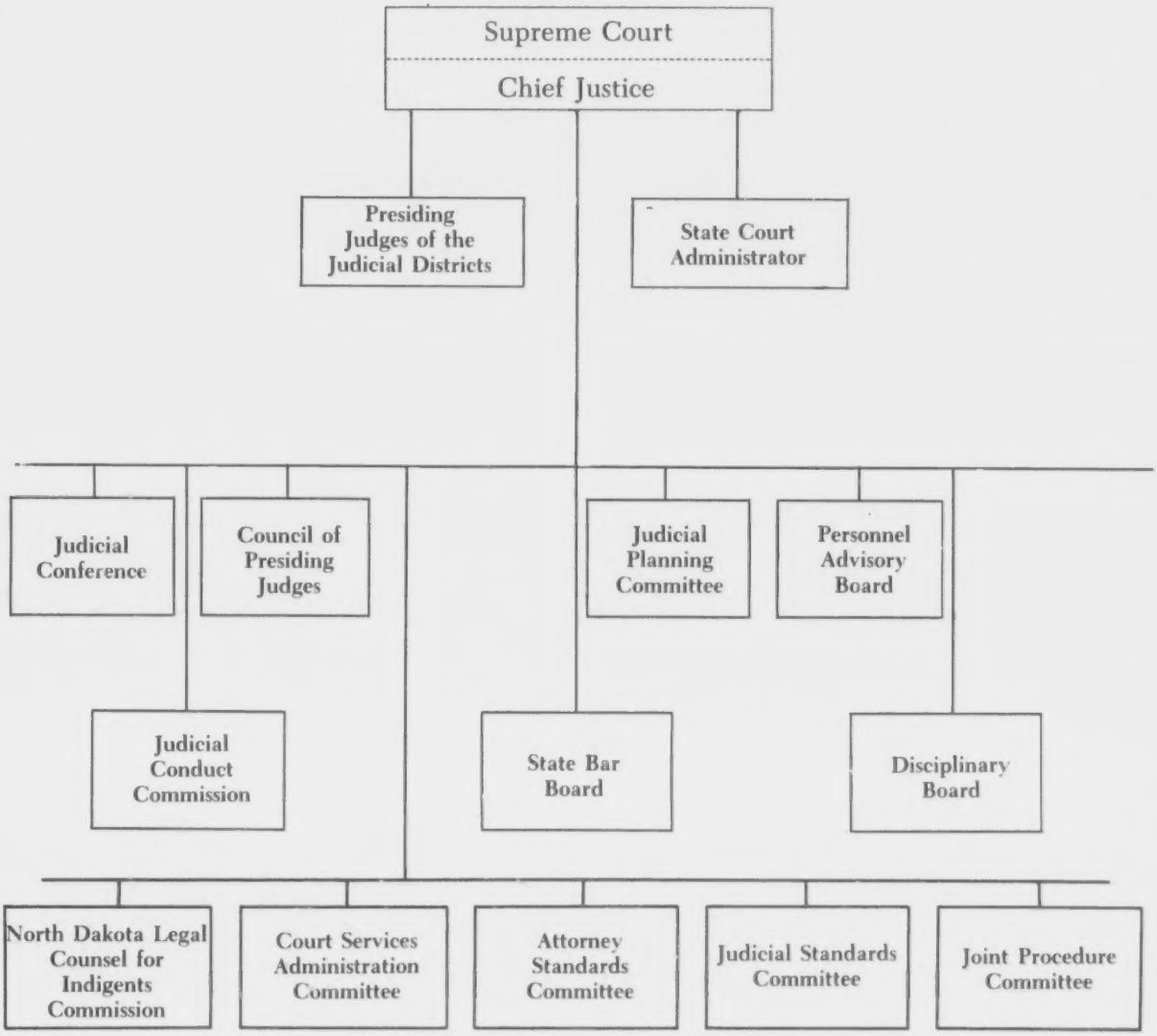
# Administration of the Judicial System

Ultimate responsibility for the efficient and effective operation of the judicial system resides with the Supreme Court. The constitution has emphasized the Supreme Court's administrative responsibility for the judicial system by designating the chief justice as the administrative head of the judicial system. In addition, the state constitution also grants the Supreme Court supervisory authority over the legal profession. Article VI, Section 3 states that the supreme court shall have the authority, "unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarment of attorneys at law."

To help it fulfill these administrative and supervisory responsibilities, the supreme court relies upon the state court administrator, presiding judges, and various advisory committees, commissions and boards. The functions and activities of these various bodies during 1985 are described in the subsequent pages of this report.

A diagram of the administrative organization of the North Dakota judicial system is provided below.

ADMINISTRATIVE ORGANIZATION OF THE
NORTH DAKOTA JUDICIAL SYSTEM



# Office of State Court Administrator

Article VI, Section 3 of the North Dakota Constitution authorizes the chief justice of the Supreme Court to appoint a court administrator for the unified judicial system. Pursuant to this constitutional authority, the Supreme Court has outlined the powers, duties, qualifications and term of the state court administrator in an administrative rule. The duties delegated to the state court administrator include assisting the Supreme Court in the preparation of the judicial budget, providing for judicial education services, coordinating technical assistance to all levels of courts, planning for statewide judicial needs, and administering a personnel system.

**Judicial Education**

Under the guidance and supervision of the Judicial Conference Committee on Judicial Training, the Office of State Court Administrator develops and coordinates training programs for all levels of judicial and court support personnel. In addition, a number of other professional development and information activities are coordinated and conducted under the auspices of the State Court Administrator. These activities are described in greater detail in the section of this report which discusses the activities of the Committee.

**Judicial Planning**

Staff services are provided to the Judicial Planning Committee and other advisory committees of the supreme court by the planning staff in the State Court Administrator's office. The duties of these staff personnel include research, bill drafting, rule drafting, arrangement of committee meetings, and such other tasks that are assigned by the various committees. Specific activities and projects of the different Supreme Court standing committees are provided in a latter section of this report.

**Personnel Management**

The state funding of most district court employees in 1981 significantly increased the personnel management responsibilities of the State Court Administrator. To insure uniformity in personnel administration across districts, personnel policies and a pay and classification plan for district court employees were developed under the direction of the State Court Administrator.

**Fiscal Responsibilities**

One of the State Court Administrator's primary administrative responsibilities is the management of the judicial budget. As the budget director for the judicial system, he is responsible for the coordination and preparation of the supreme court and district court budgets, preparation and analysis of monthly budget status reports, the development of budgetary policies for the judiciary, and the maintenance of payroll records for judges and court personnel.

Even with the addition of most district court expenses to the judicial budget, the judicial budget constitutes only a small portion of the state's total budget for the 1983-85 biennium. However, this is not to say that the budgetary impact of the additional expenses has been minimal. Since the absorption of most district court expenses by the state in 1981, the judicial portion of the state's budget has doubled.

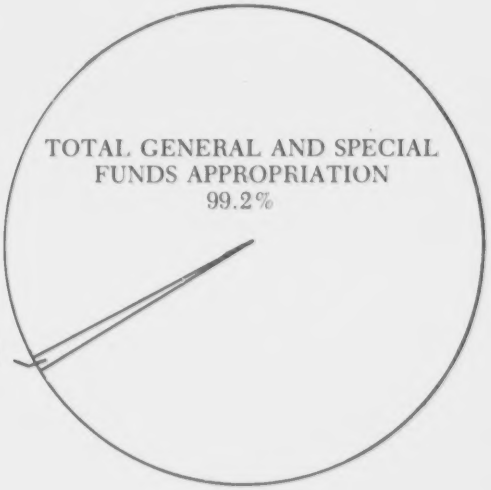
The impact of the state's funding of nearly all district court expenses can also be seen in the way in which the judicial budget is allocated. Whereas the supreme court portion of the judicial budget used to be over 40 percent, now it is less than 23 percent.

In viewing the judicial budget, it should be noted that it does not include the salaries of district court clerks and deputy clerks or any county court or municipal court expenditures. District court clerk expenses and county court expenses are funded by county government in North Dakota. Likewise, municipal courts are funded by the particular municipalities they serve.

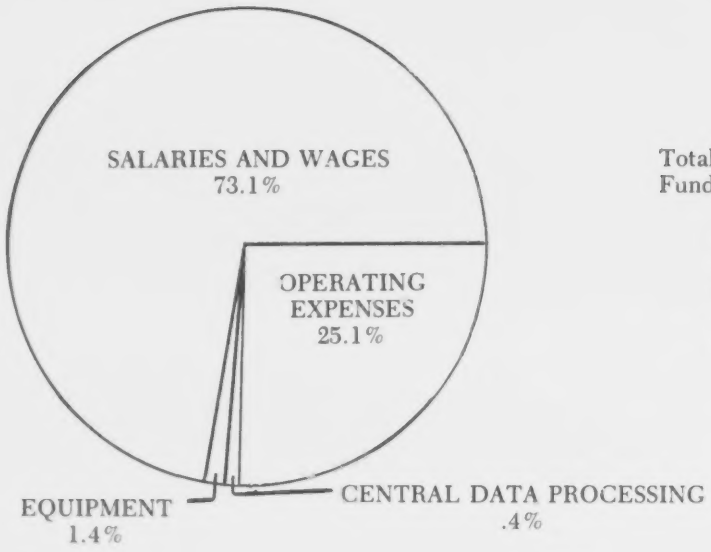
JUDICIAL PORTION OF THE STATE'S BUDGET
1985-1987 BIENNIUM

Total General and Special Funds Appropriation
$2,467,962,453

Judicial System General and Special Funds Appropriation
$20,335,031



## STATE JUDICIAL SYSTEM APPROPRIATION
## BY TYPE OF ACTIVITY
## 1985-1987 BIENNIUM



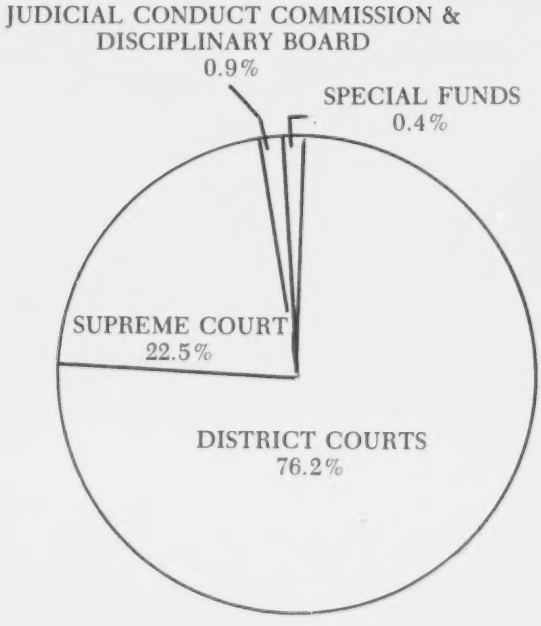

Total Judicial System General and Special Funds Appropriation
$20,335,031

| | |
|---|---|
| Salaries and Wages | $14,857,534 |
| Operating Expenses | 5,105,173 |
| Central Data Processing | 88,921 |
| Equipment | 283,403 |

## STATE JUDICIAL SYSTEM APPROPRIATION
## BY TYPE OF COURT
## 1985-1987 BIENNIUM

| | |
|---|---|
| Supreme Court | |
| General Fund | $ 4,568,810 |
| Special Funds | 20,000 |
| TOTAL | $ 4,588,810 |
| District Courts | |
| General Fund | $15,492,816 |
| Special Funds | — |
| TOTAL | $15,492,816 |
| Judicial Conduct Commission & Disciplinary Board | |
| General Fund | $ 183,405 |
| Special Funds | 70,000 |
| TOTAL | $ 253,405 |

**Special Funds received include federal grant funds, funds from the State Bar Association for Disciplinary procedures, and funds from the ABA.*



# Advisory Committees of the North Dakota Judicial System

To assist in its administrative supervision of the North Dakota Judicial System the Supreme Court utilizes the services of numerous advisory committees. These committees address specific problem areas within their study jurisdiction and make recommendations on the resolution of these problems to the Supreme Court.

Four of these committees—the Joint Procedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee, and the Court Services Administration Committee-were established by the Supreme Court in 1978 as an essential part of its rulemaking process (NDRPR). One of these committees, the Joint Procedure Committee, existed before the Supreme Court adopted its rulemaking process, but was incorporated into the advisory committee structure created by the supreme court rulemaking process.

Other committees of the judicial system include the Judicial Planning Committee, the Personnel Advisory Board, the Special Committee on Judicial Training, the North Dakota Legal Counsel for Indigents Commission, and the Council of Presiding Judges. All of these committees contribute to the improvement of court services in North Dakota. Special committees established to address timely issues include the Constitution Celebration Committee and the Civil Legal Services Study Committee.

Summaries of the activities of these committees during 1985 are provided below.

### The Judicial Planning Committee

The Judicial Planning Committee is the forum for overall planning for judicial services in North Dakota. It is chaired by Justice Beryl J. Levine and its membership includes representatives of presiding judges, attorneys, district judges, county judges, municipal judges, court support personnel, and the public. The role of the Committee is to identify, describe and clarify problem areas which can be referred to judicial leaders and other standing committees for resolution.

As part of its planning process, the Committee prepares a Judicial Master Program for each biennium which sets the goals, objectives and tasks for the North Dakota Judicial System during that biennium.

Much of the Committee's efforts during 1985 were spent in completing the **Judicial Master Program for the Biennium Ending June 30, 1987.** This Judicial Master Program was based on the local district plans submitted to the Committee and the results of a questionnaire on court services in North Dakota which was sent to attorneys, judges, court personnel and representatives of the public. The planning process was coordinated with the budgeting process to establish priorities for the North Dakota judicial system.

During 1985 the Committee established a Court Services for Victims and Witnesses of Crime Subcommittee, chaired by Irv Nordland of Bismarck. The Municipal Court Study Subcommittee chaired by Calvin Rolfson of Bismarck, prepared legislation for consideration by the 1987 Legislature and pursued recommendations for municipal court improvements within the unified judicial system.

### The Joint Procedure Committee

The Joint Procedure Committee is composed of ten judges representing the judiciary and ten attorneys representing the State Bar Association of North Dakota. The Committee is chaired by Justice H.F. Gierke, III.

DeNae H.M. Kautzmann replaced Jim Harris as Staff Attorney for the Committee in May of 1985. Jim Harris joined the Central Legal Staff of the Supreme Court.

The Committee's duties include study, discussion, and revision of the procedural rules of North Dakota, including the Rules of Civil Procedure, Criminal Procedure, Appellate Procedure, Evidence, and other rules of pleading, practice, and procedure. When appropriate, the Committee presents proposals to the Supreme Court to amend existing rules of procedure or to adopt new procedural rules.

The Committee met twice during 1985 to study a variety of procedural issues and problems brought to its attention.

Since publication of the 1984 Court Rules Manual, the Committee has studied and has presented recommendations to the Supreme Court for adoption of amendments to Rules of Civil Procedure, Criminal Procedure, Appellate Procedure, and Rules of Court. The Supreme Court in September of 1985 adopted amendments to the following rules: Rules 4, 5, 7, 11, 15, 16, 26, 30, 30.1, 31, 32, and 52 of the North Dakota Rules of Civil Procedure; Rules 11, 30, 31, 32, 35, 37, and 46 of the North Dakota Rules of Criminal Procedure; Rules 4, 9, 10, 27, 28, and 35.1 of the North Dakota Rules of Appellate Procedure; and Rules 3.2, 6.6, and 8.3 of the North Dakota Rules of Court. In addition, several explanatory notes were also amended in order to reflect the amendment to the rules by the Supreme Court.

The amendments to the Rules of Procedure and the new Procedural Rules which were adopted by the Supreme Court in September of 1985 are effective March 1, 1986. The new edition of the Court Rules Manual became available for purchase in February 1986.

### The Attorney Standards Committee

The Attorney Standards Committee studies and reviews all rules relating to attorney supervision. Malcolm Brown of Mandan chairs the Committee.

In 1983 the Committee initiated a major subcommittee study of the American Bar Association Model Rules of Professional Conduct in cooperation with the State Bar Association of North Dakota and the North Dakota Trial Lawyers Association. The study continued through 1985 and is scheduled for completion in 1986.

In 1984 the Committee and the Disciplinary Board of the Supreme Court appointed a special committee to conduct a study of the lawyer discipline process in North Dakota. The study committee completed its study late in 1985. The Attorney Standards Committee is expected in the Spring of 1986 to approve the study committee's report and make a recommendation that the Supreme Court adopt the changes proposed by the study committee.

Late in 1984, the Supreme Court referred for study to the committee a petition for the establishment of a lawyer specialization plan in North Dakota. The petition was filed with the Court by the State Bar Association. Because of developments in the caselaw in this area in 1985, the Attorney Standards Committee is working with the Bar Association in determining the relative merits of establishing a specialization plan. The study is expected to conclude with a recommendation to the Court regarding the petition sometime late in the Spring of 1986.

In 1985 the Attorney Standards Committee met with the North Dakota Bar Foundation to discuss the status of the development of an interest on lawyers' trust programs. As a result of that meeting, the Committee in consultation with the Foundation appointed a subcommittee for the purposes of establishing such a program in North Dakota. The study is scheduled for completion in 1986.

### The Judiciary Standards Committee

The Judiciary Standards Committee, chaired by Jane Heinley of Fargo, studies the rules on judicial discipline, judicial ethics, the judicial nominating process, and all other rules relating to supervision of the judiciary.

In 1985, the Supreme Court approved the Committee's recommendation that the Court establish a pattern jury instruction commission within the judiciary. To provide for a smooth transition of the responsibility of drafting current pattern jury instructions from the State Bar Association to the North Dakota Judiciary, the Supreme Court postponed the effective date of the administrative rule establishing the Commission to July 1, 1987.

During 1985, the Committee continued a study initiated in 1984 of the need for a judicial ethics advisory service in North Dakota. In 1985 the Committee proposed to the Judicial Conduct Commission that the Commission begin issuing advisory opinions to assist judges in their interpretation of the Rules of Judicial Conduct. As a result of the Commission's determination that such a function would conflict with their primary function of acting as a tribunal in the enforcement of the Rules of Judicial Conduct, the Judiciary Standards Committee is currently working with the Judicial Conference in an attempt to develop an advisory service for judges in North Dakota sometime in 1986.

In 1985, the Committee appointed a special subcommittee to study the campaign and political conduct provisions of the Rules of Judicial Conduct. The subcommittee is expected to submit its report to the Committee in the Spring of 1986.

In 1985, the Committee also made a recommendation to the Supreme Court that Administrative Rule 7 be amended to designate separate county judgeships for those counties which authorize more than one county judge to serve in a county. The Court is expected to act on the recommendation early in 1986 in order to clarify how county judges in those counties will be elected in the 1986 elections.

Other topics studied by the Committee in 1985 included a study of the need to amend the Rules of Judicial Conduct to deal with judge recusal in cases where a judge is named as a defendant in a lawsuit, a study of the need for a judicial performance evaluation program, and a study of the application of Rules of Judicial Conduct to part-time judges. The Committee is also awaiting proposals from the North Dakota Broadcaster's Association and the Judicial Conduct Commission prior to commencing studies on the use of cameras in trial courts and on the judicial discipline process in North Dakota.

**The Court Services Administration Committee**

The Court Services Administration Committee studies and reviews all rules and orders relating to the administrative supervision of the North Dakota Judicial System. It is chaired by William A. Strutz of Bismarck.

During 1985 the Committee addressed:

1) Technical changes to Administrative Rule 11 regarding the authority of the Chief Justice;
2) Clarifying changes to Administrative Rule 2 regarding the change of Judge determination authority of the Chief Justice and Presiding Judges;
3) An addition to Administrative Rule 12 regarding a docket currency standard for administrative agency review cases;
4) Minor revisions to Administrative Rule 20 regarding magistrates;
5) Continuing study of future transcript preparation policies of the North Dakota Judicial System;
6) A proposed uniform non-Administrative Agency Practice Act agency appellate procedure in District Court (Rule 9.1, NDROC), which has been deferred by the Supreme Court for legislative study;
7) Study of revision of Administrative Rule 12 regarding docket currency standards as compared with national standards with no recommendation at this time; and

Through the Future Appellate Court Services Study Subcommittee, chaired by Representative William Kretschmar of Venturia, the Committee reviewed progress toward legislation to establish a court of appeals in North Dakota.

Through the Family Caselaw Referee Study Subcommittee chaired by Judge William A. Neumann of Rugby, the Committee successfully initiated legislation to establish judicial referees and to prepare an implementing revision of Administrative Rule 13 regarding Judicial Referees.

Through the County Court and Clerks of District Court Funding Study Subcommittee, chaired by Judge Jonal Uglem of Hillsboro, the Committee continued its study of future funding of county court services and clerk of district court services.

Through the Records Management Study Subcommittee, chaired by Ted Gladden of Bismarck, the Committee continued its study of trial court records management improvements, completed revisions of district court and county court fee schedules, initiated revision of the North Dakota Clerk of Court Manual to establish uniform and efficient record keeping forms and practices in the county and district courts in North Dakota; prepared a proposal (Administrative Rule 19) establishing a comprehensive records retention schedule for the District, County and Municipal Courts in North Dakota and prepared a procedure for adjusting clerk of court fee procedures through the State Court Administrator.

**Personnel Advisory Board**

The Personnel Advisory Board was first created by the Supreme Court on January 21, 1982, and reconstituted by the Supreme Court on July 27, 1984. As reconstituted, the Board consists of the state court administrator, three district court employees, and three supreme court employees. The state court administrator is an ex officio member of the Board while the other six employees are appointed to the Board by the Chief Justice. The Chief Justice also designates the chairperson of the Board from among its membership.

The Board serves as an advisory body to the Chief Justice and the Supreme Court; it has no independent decisionmaking authority. In this capacity the Board has two primary functions:

1) To develop personnel policies for the North Dakota judicial system; and
2) To serve as a review board for employee grievances, reclassification requests, and other personnel matters.

Other personnel related duties and responsibilities may also be assigned to the Board by the Chief Justice or the Supreme Court.

During 1985 the Board considered several revisions to the judicial system's pay and classification plan. It reviewed the court administrator classifications and compensation levels, the conflicts between the judiciary's personnel policies and statutory provisions pertaining to court personnel, and the job descriptions for clerical positions. Its recommendations to revise the job descriptions for clerical positions were approved by the Supreme Court as well as its recommendations to revise the leave policy to eliminate extraneous provisions. The Board also recommended to the Supreme Court a plan for allocating salary increases for fiscal year 1986 and the revision of the pay ranges to conform them to the levels adopted by other state agencies. In addition, the Board began drafting an employee discipline policy, a revised performance evaluation form, and an overtime policy to comply with the Fair Labor Standards Act.

In exercising its review function, the Board conducted fourteen reclassification reviews during 1985. It recommended that thirteen of the reclassification requests be granted and one be denied. The Chief Justice followed the Board's recommendation in all fourteen cases.

To facilitate a comprehensive review of the judiciary's pay and classification system, the Board also recommended that the Supreme Court hire a personnel consultant to conduct an independent review of its pay and classification system. As the year ended, it also initiated a study of the impact of statutory and Supreme Court rule changes on the job duties, responsibilities, and compensation of judicial referees in North Dakota.

**Judicial Training Committee**

On July 1, 1985, the Judicial Training Committee became a committee of the newly created North Dakota Judicial Conference which replaced the North Dakota Judicial Council. As reconstituted under the Judicial Conference, the Committee consists of fourteen members representing a cross-section of judges and court personnel. It is chaired by Judge Larry Hatch, a district court judge in the South Central Judicial District.

Although the Committee's membership and parent body have changed, the Committee's functions have remained basically the same. It is still primarily responsible for providing seminars and

other educational tools which meet the professional needs of judges and court personnel of the North Dakota judicial system.

In addition to its program development function, the Committee also has a variety of other duties. They include:

1) Development of a biennial training budget for instate and out-of-state training programs;
2) Monitoring training costs and programs to promote cost effectiveness;
3) Designation of approved out-of-state professional development programs and sponsors; and
4) Drafting and reviewing appropriate legislation and court rules relating to judicial training.

During 1984 the Committee developed and sponsored eleven instate educational programs for judges and court personnel. These programs were attended by 444 judges and court personnel. One of these programs, the Municipal Judges Institute, was conducted for the first time under the auspices of the Judicial Training Committee and with the cooperation of the University of North Dakota's School of Law. The program was designed to provide a more comprehensive and systematic approach to fulfilling the educational needs of lay municipal court judges in North Dakota.

To clarify the procedures for determining out-of-state training priorities among judges and court personnel, the Committee developed and proposed to the Supreme Court an out-of-state training priority policy. This policy was adopted by the Supreme Court and implemented by the State Court Administrator's Office for the 1985-87 biennium.

Bylaws for the Committee were also developed and proposed to the Judicial Conference for adoption. The Judicial Conference reviewed these bylaws and returned them to the Committee for further revision. Amended bylaws will be submitted to the Judicial Conference again in 1986.

**Council of Presiding Judges**

The Council of Presiding Judges consists of the presiding judge of each of the seven judicial districts with the chairman being named by the Chief Justice. Present members of the Council are: The Honorable Douglas B. Heen, Chief Presiding Judge; The Honorable A.C. Bakken; The Honorable Norman J. Backes; The Honorable Benny A. Graff; The Honorable Maurice R. Hunke; The Honorable Wallace D. Berning.

The role of the Council of Presiding Judges centers primarily in the area of budgets and caseloads with the responsibility for insuring that the business of the courts is handled with dispatch and efficiency. The Council meets on call of the chairman. In attendance at each meeting is the chief justice, the state court administrator, and the trial court administrators. The state court administrator's staff acts as staff to the Council.

In 1985, the Council of Presiding Judges met five times. At each meeting there was a review of the district court budgets as they relate to the legislative appropriation in the various program areas within the district courts. As 1985 marked both the end and beginning of two different bienniums, there was a need for the Council of Presiding Judges to consider carefully the balancing out of accounts for the old biennium and the adjustments to salaries provided in the new biennium.

Some of the other major issues that came before the presiding judges in 1985 were the matters of merit pay increases for district court employees, state reimbursement for county court transcripts, lawsuits against judges, reimbursement for meals in city of employment, the applicability of the Fair Labor Standards Act to court employees, and the matter of county judges serving as municipal judges.

**The North Dakota Legal Counsel for Indigents Commission**

The North Dakota Legal Council for Indigents Commission is composed of seven members who are nominated by the North Dakota Association of Counties, the chief presiding district court judge, the Board of Governors of the State Bar Association and the Attorney General and then appointed by the Chief Justice. Bruce Bohlman of Grand Forks, after serving for four years as chairman of the Commission, resigned from the Commission in the summer of 1985 and Gail Haggerty of Bismarck was appointed by Chief Justice Ralph J. Erickstad to replace him.

The Commission provides rules and guidelines for the administration of indigent defense services in North Dakota. It provides a mechanism for the resolution of counsel fee disputes between judges and court appointed attorneys or contract attorneys who are representing indigent defendants in criminal, mental health, and juvenile cases. The Commission also provides technical assistance concerning indigent defense services to judicial districts, counties, and municipalities.

The funds appropriated by the Legislature for indigent defense services in the district courts of North Dakota are administered by each of the seven judicial districts through the Office of the State Court Administrator.

Each county and municipality are responsible for funding the indigent defense expenses that arise in their respective county and municipal court.

In 1985, the Commission adopted guidelines providing recommended procedures for courts to follow in determining whether a privately retained counsel shall be allowed to withdraw from the representation of an indigent defendant and in determining whether an indigent contemnor should be provided court appointed counsel in civil contempt proceedings.

A question also arose in 1985 as to whether the city or the county is responsible for the indigent defense costs incurred in appealing a municipal court decision to county court. The Commission issued a letter opinion resolving the matter between the litigants and is contemplating introducing legislation during the 1987 legislative session to fill the vacuum that currently exists in the law so as to avoid the question arising in the future.

The Commission in 1985 also met with the presiding judges of the seven judicial districts in North Dakota and solicited comments from defense attorneys to determine the advantages and disadvantages of the use of contracts in the delivery of indigent defense services in the state. As a result of the meeting the Commission approved very minor revisions to its model indigent defense contract and continues to encourage the use of contracts in North Dakota.

Other topics discussed but not completed by the Commission in 1985 included the formation of a Criminal Lawyer Association to provide training seminars for criminal defense attorneys in the state, contracting with the National Defender's Information Network to provide specialized computer assisted research services to court appointed defense attorneys in the state, and a study of the need to develop guidelines to encourage the appointment of local review boards to assist presiding judges, county judges, and municipal judges in bidding and awarding indigent defense contacts in the state.

**Civil Legal Services Study Committee**

The Civil Legal Services Study Committee, chaired by Judge Joel Medd of Grand Forks, was established, in cooperation with the State Bar Association of North Dakota, to study mechanisms for the future provision of civil legal services in North Dakota.

**Constitution Celebration Committee**

The Constitution Celebration Committee, chaired by Justice Herbert L. Meschke, was established to aid in and encourage preparations for the celebration of the bicentennial of the U.S. Constitution and the centennial of the North Dakota Constitution.

# Disciplinary Board

The Disciplinary Board of the Supreme Court has responsibility for handling complaints alleging unethical conduct by North Dakota attorneys.

There are seven lawyer and three non-lawyer members of the Board, as follows: Robert Vaaler, Grand Forks, Chair; Carlan J. Kraft, Rugby, Vice Chair; Sandi Lang Frenzel, Dickinson; Dann E. Greenwood, Dickinson; Michael L. Halpern, Glen Ullin; Ann McLean, Hillsboro; Maynard Sandberg, Minot; J. Michael Nilles, Fargo; Mark L. Stenehjem, Williston; and James A. Wright, Jamestown. Luella Dunn, Clerk of the Supreme Court, serves as the secretary for the Board. Disciplinary Counsel is Vivian E. Berg.

Complaints against attorneys are docketed by the Board's secretary and forwarded to the Board's chair and either to the chair of Inquiry Committeee East or of Inquiry Committeee West of the State Bar Association. An investigation is then conducted by a member of the respective committees, or disciplinary counsel. All parties to a complaint have the right to appear before the Inquiry Committeee.

The Inquiry Committeee may dismiss or may recommend discipline to the Disciplinary Board. The Board may also dismiss, or it may issue a private reprimand, in which event the attorney may request a formal hearing. If the Disciplinary Board recommends a public reprimand, suspension, or disbarment, the matter proceeds much as a civil case. It is heard generally by a three-member hearing panel, although it may be set before a hearing officer or the Board en banc.

A hearing panel may also dismiss or refer to the Disciplinary Board for a private reprimand. If a greater sanction is recommended, the matter is presented to the Supreme Court with briefs and oral argument. Review is de novo on the record and the standard of proof for the Disciplinary Board is clear and convincing evidence.

A joint committee of the Attorney Standards Committeee and the Disciplinary Board is nearing completion of its work on the North Dakota Rules of Disciplinary Procedure in light of an evaluation conducted through the Standing Committeee on Professional Discipline of the American Bar Association.

Following is a summary of complaints handled by the Disciplinary Board in 1985.

**SUMMARY OF DISCIPLINARY BOARD COMPLAINTS FOR THE YEAR 1985**

| | |
|---|---|
| New complaints filed for the period | 116 |
| General nature of new complaints filed: | |
| Client funds and property | 6 |
| Conflict of interest | 4 |
| Continuing Legal Education requirements | 19 |
| Criminal conviction | 1 |
| Excessive Fees | 8 |
| Failure to communicate with discp. agency | 1 |
| Failure to communicate with client | 16 |
| Improper conduct | 29 |
| Incompetent representation | 21 |
| Misrepresentation/Fraud | 9 |
| Neglect/Delay | 2 |
| TOTAL | 116 |
| Disciplinary proceedings pending from prior years | 12 |
| Complaints carried over from previous year | 37 |
| Total complaints for consideration | 165 |
| Disposition of Complaints: | |
| Dismissed by Inquiry Committee | 83 |
| Dismissed by Disciplinary Board | 5 |
| Dismissed by Hearing Panel | 1 |
| Disability Inactive Status | 1 |
| Public Reprimands issued | 1 |
| Private Reprimands issued | 5 |
| Suspension | 4 |
| Disbarment | 2 |
| Disciplinary proceedings instituted and pending | 27 |
| Complaints pending 12/31/85 | 36 |
| TOTAL | 165 |

# Judicial Conduct Commission

The Judicial Conduct Commission, formerly the Judicial Qualifications Commission, was established by the legislature in 1975 with the enactment of Chapter 27-23 of the North Dakota Century Code. It was empowered to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal, or retirement of any judge.

The seven members of the Commission include one district judge, one county judge, one attorney, and four citizen members. Members of the Commission are Louise Sherman, Dickinson, Chair; Ernest Pyle, West Fargo, Vice Chair; Arnie Braaten, Grand Forks; Norene Bunker, Fargo, Honorable Gary A. Holum, Minot; Honorable William A. Neumann, Rugby; and Fred W. Whisenand, Williston. The Clerk of the Supreme Court, Luella Dunn, is secretary for the Commission. Staff Counsel is Vivian E. Berg.

Complaints against judges are filed by the Commission's secretary, who acknowledges their receipt and forwards them to staff counsel for investigation. The judge against whom the complaint is filed is given notice and provided an opportunity to present such matters as he or she may choose.

By far the majority of complaints are dismissed as being without merit. However, the Commission may issue a private censure or direct that formal proceedings be instituted. If formal proceedings are instituted, the matter may be heard by the Commission or by a master or masters appointed by the Supreme Court.

The following table summarizing the nature and disposition of complaints in 1985 suggests that many complaints reflect matters properly the subject of appellate review.

**JUDICIAL QUALIFICATIONS COMMISSION**
**SUMMARY OF COMPLAINTS**
**FOR THE YEAR 1985**

| | |
|---|---|
| New complaints filed for the above period | 32 |
| General nature of new complaints filed: | |
| Failure to comply with the law | 2 |
| Improper conduct | 9 |
| Biased decision | 9 |
| Failure to afford complainant due process | 3 |
| Alleged outside influence | 3 |
| Conflict of interest | 6 |
| TOTAL | 32 |
| Formal proceedings pending from prior years | 2 |
| Complaints carried over from previous year | 12 |
| Total complaints for consideration | 46 |
| Disposition of Complaints: | |
| Dismissed | 32 |
| Private censure | 3 |
| Resignation | **4 |
| Public censure | *2 |
| Complaints pending 12/31/85 | 5 |
| TOTAL | 46 |

Of the new complaints filed in 1985:

11 were against county judges
4 were against small claims court judges
13 were against district court judges
4 were against municipal judges

* *Two complaints against one individual resulted in a public censure.*
***Four complaints against one individual led to a resignation.*

# State Bar Board

The North Dakota State Bar Board was created by statute in 1919. This statute provides for a three-member board comprised of resident, licensed members of the Bar of North Dakota appointed by the Supreme Court. Presently serving as President is John D. Kelly of Fargo, and as members Malcolm H. Brown of Mandan and Gerald D. Galloway of Dickinson. By statute, the Clerk of the Supreme Court, Luella Dunn, is designated ex-officio secretary-treasurer of the Board. The administration of the bar examination, preservation of records and issuance of licenses are done by the ex-officio secretary-treasurer.

The State Bar Board, by statute, is charged with the responsibility of the annual licensing of attorneys. A lawyer suspended or disbarred by Supreme Court Order is not eligible for licensure. In 1985, there were 1,475 attorneys licensed to practice law in North Dakota compared with 1,425 in 1984.

The Board is also charged with the responsibility of examining applicants for admission to the Bar of North Dakota as to their legal ability and character and fitness to practice law. North Dakota utilizes the multistate bar examination. It covers six subjects: constitutional law, contracts, criminal law, evidence, torts and real property. Essay exams are given in the following six other subjects: Business Associations; Commercial Transactions; Equity; Practice and Procedure; Wills, Estates and Trusts; and Family Law. Two examinations are offered each year. Statistics for the 1985 bar examinations were as follows:

| | # Applicants | # Successful % Successful | # UND Grads. | # Successful % Successful |
|---|---|---|---|---|
| 2-85 exam | 12 | 10/83% | 6 | 5/83% |
| 7-85 exam | 89 | 75/84% | 73 | 61/83% |

Ninety-three applicants were admitted to the Bar of North Dakota in 1985. Nine attorneys were admitted on motion, having been admitted and practiced law in another state for five years or more and who met the requirement of having received 45 hours of Continuing Legal Education credits approved or approvable in North Dakota during the three years immediately preceding application for admission.

# Judicial Conference

The North Dakota Judicial Conference was originally established as an arm of the judicial branch of state government in 1927. At that time, the organization was known as the North Dakota Judicial Council. Present statutory language covering the Judicial Conference is found in Chapter 27-15, NDCC, as amended in 1985.

There are currently seventy-one members of the Judicial Conference. As ex officio members, the Conference consists of all Supreme Court Justices, District Court Judges, and County Court Judges. Other ex officio members are the Attorney General, the Dean of the University of North Dakota School of Law, and the Clerk of the North Dakota Supreme Court. Other members of the Conference include two judges of the Municipal Courts, as appointed by the Municipal Judges Association, and five members of the North Dakota Bar Association, who are appointed by the Bar Association. All Surrogate Judges, as appointed by the Supreme Court under Section 27-17-03, NDCC, are also Conference members.

All ex officio members of the Conference serve during the time they occupy their respective official positions. The term of office of the two Municipal Judges is two years. The term of office for the five members of the bar is five years. Vacancies on the Judicial Conference are filled by the authority originally selecting the member.

The State Court Administrator serves as the Executive Secretary of the Judicial Conference.

The officers of the Judicial Conference consist of the chairman and chairman-elect, who are selected for a term of two years by the members of the Conference. In addition, there is an executive committee consisting of the Chairman, Chairman-elect, a Justice of the Supreme Court elected by the Supreme Court, a District Judge elected by the Association of District Judges, and a County Judge elected by the Association of County Judges.

Under North Dakota law, the Judicial Conference is required to meet twice each year. These meetings are usually held in June and November. Special meetings, however, may be called by the chairman. While members of the Judicial Conference are not compensated for their services, they are reimbursed for their expenses while discharging their Conference duties.

The Judicial Conference has four major duties. They are:

1. Solicit, receive, and evaluate suggestions relating to the improvement of the administration of justice.
2. Consider and make recommendations to the Supreme Court for changes in rules, procedures, or any matter pertaining to the judicial system.
3. Coordinate continuing judicial education efforts for judges and support staff.
4. Establish methods for review of proposed legislation which may affect the operation of the judicial branch.

To support the activities of the full Conference, there has been created by Conference bylaws the following standing committees:

1. Program Planning Committeee, Judge William Neumann, Chairman
2. Committeee on Legislation, Judge Dennis Schneider, Chairman
3. Committeee on Judicial Salary and Retirement, Justice H.F. Gierke, Chairman.
4. Committeee on Courts with Limited Jurisdiction, Judge Harold B. Herseth, Chairman
5. Committee on Judicial Training, Judge Larry Hatch, Chairman

The Conference has also created a Special Committeee known as the Judicial Immunity Committeee chaired by District Judge Kirk Smith.

Committeee membership results from appointment by the chairman after consultation with the executive committee of the Judicial Conference. The bylaws provide that non-conference members can serve on either standing or special committees.

For 1985, the officers and executive committee of the Judicial Conference are as follows:

Justice Gerald W. VandeWalle, Chairman
Judge William A. Neumann, Chairman-elect
Justice H.F. Gierke, Executive Committeee
Judge Dennis A. Schneider, Executive Committeee
Judge Harold B. Herseth, Executive Committeee

# North Dakota Judicial Conference

## JUSTICES OF THE SUPREME COURT

Ralph J. Erickstad, Chief Justice, Bismarck
Gerald W. VandeWalle, Justice, Bismarck
H. F. Gierke III, Justice, Bismarck
Herbert L. Meschke, Justice, Bismarck
Beryl J. Levine, Justice, Bismarck

## JUDGES OF THE DISTRICT COURTS

### NORTHWEST JUDICIAL DISTRICT
*Wallace D. Berning, Minot
Everett Nels Olson, Minot
Jon R. Kerian, Minot
Wm. M. Beede, Williston
Bert L. Wilson, Williston

### NORTHEAST JUDICIAL DISTRICT
*Douglas B. Heen, Devils Lake
James H. O'Keefe, Grafton
Wm. A. Neumann, Rugby

### NORTHEAST CENTRAL JUDICIAL DISTRICT
*A. C. Bakken, Grand Forks
Kirk Smith, Grand Forks
Joel D. Medd, Grand Forks

### EAST CENTRAL JUDICIAL DISTRICT
*Norman J. Backes, Fargo
John O. Garaas, Fargo
Lawrence A. Leclerc, Fargo
Michael O. McGuire, Fargo

### SOUTHEAST JUDICIAL DISTRICT
*Robert L. Eckert, Wahpeton
John T. Paulson, Valley City
Gordon O. Hoberg, Jamestown

### SOUTH CENTRAL JUDICIAL DISTRICT
*Benny A. Graff, Bismarck
Gerald G. Glaser, Bismarck
Dennis A. Schneider, Bismarck
Wm. F. Hodny, Mandan
Larry M. Hatch, Linton

### SOUTHWEST JUDICIAL DISTRICT
*Maurice R. Hunke, Dickinson
Allan L. Schmalenberger, Dickinson
Donald L. Jorgensen, Hettinger

## JUDGES OF THE COUNTY COURTS

Ralph W. Bekken, Stanley
James M. Bekken, New Rockford
A. S. Benson, Bottineau
Tom M. Beyer, Dickinson
C. James Cieminski, Valley City
Donald Cooke, Fargo
Ronald M. Dosch, Devils Lake
Donavin L. Grenz, Linton
F. Gene Gruber, Hettinger
Harold B. Herseth, Jamestown
Ronald L. Hilden, Dickinson
Robert W. Holte, Stanley
Gary A. Holum, Minot
Frank J. Kosanda, Grand Forks
Bayard Lewis, Wahpeton
John C. McClintock, Rugby
Wm. W. McLees, Jr., Watford City
Thomas Metelmann, Cavalier
Gary D. Neuharth, Ellendale
Burt L. Riskedahl, Bismarck
Cynthia Rothe, Fargo
Lester Schirado, Mandan
Orville A. Schulz, Washburn
Gordon Thompson, Williston
Lowell O. Tjon, Lisbon
Jonal Holt Uglem, Hillsboro
Theodore Weisenburger, Grafton

## JUDGES OF THE MUNICIPAL COURTS

Marian Schatz, Beach
Andrew Henning, Stanley

## SURROGATE JUDGES OF THE SUPREME AND DISTRICT COURTS

Wm. L. Paulson, Detroit Lakes, MN
Vernon R. Pederson, Bismarck
Eugene A. Burdick, Williston
Roy A. Ilvedson, Minot

### ATTORNEY GENERAL
Nicholas J. Spaeth, Bismarck

### CLERK OF SUPREME COURT
Luella Dunn

### UND SCHOOL OF LAW
Jeremy Davis, Dean, Grand Forks

## MEMBERS OF THE BAR

J. Philip Johnson, Fargo
Patrick J. Maddock, Grand Forks
Walfrid B. hankla, Minot
Charles A. Feste, Fargo
Paul G. Kloster, Dickinson

### EXECUTIVE SECRETARY
William G. Bohn

*Denotes Presiding Judge
71 Members

**With special appreciation for their cooperation in the preparation of this document:**

Presiding Judge Norman J. Backes
Presiding Judge A.C. Bakken
Presiding Judge Douglas B. Heen
Presiding Judge Wallace D. Berning
Presiding Judge Benny A. Graff
Presiding Judge Robert L. Eckert
Presiding Judge Maurice R. Hunke
Marguerite Aldrich
Vivian Berg
William Blore
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